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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

APRIL 5, 1984

VOLUME 126

OFFICIAL COURT REPORTERS

Angus, Stonehouse & Co. Ltd.,
14 Carlton Street, 7th Floor,
Toronto, Ontario M5B 1J2

595-1065



ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Thursday, the 5th day
of April, 1984.

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THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.	Commission Counsel
E. CRONK	
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
	of Ontario (Crown Attorneys
	and Coroner's Office)
I.J. ROLAND)	Counsel for The Hospital for
M. THOMSON)	Sick Children
R. BATTY)	
B. PERCIVAL, Q.C.)	Counsel for The Metropolitan
D. YOUNG)	Toronto Police
K. CHOWN	Counsel for numerous Doctors
	at The Hospital for Sick
	Children
F. KITELY	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd) ..



APPEARANCES: (Continued)

J. SOPINKA, Q.C.)	Counsel for Susan Nelles -
D. BROWN)	Nurse
G.R. STRATHY)	Counsel for Phyllis Trayner -
E. FORSTER)	Nurse
M. ROSENBERG	Counsel for Sui Scott -
	Nurse
J.A. OLAH	Counsel for Janet Brownless -
	R.N.A.
B. KNAZAN	Counsel for Mrs. M. Christie -
	R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin,
	Mr. & Mrs. Gionas, Mr. & Mrs.
	Inwood, Mr. & Mrs. Turner, Mr.
	& Mrs. Lutes, and Mr. & Mrs.
	Murphy (parents of deceased
	children)
F.J. SHANAHAN	Counsel for Mr. & Mrs. Dominic
	Lombardo (parents of deceased
	child Stephanie Lombardo); and
	Heather Dawson (mother of
	deceased child Amber Dawson)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines
	(parents of deceased child
	Jordan Hines)
J. SHINEHOFT	Counsel for Lorie Pacsai and
	Kevin Garnet (parents of
	deceased child Kevin Pacsai).



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--- Upon commencing at 10:00 a.m.

SUSAN NELLES, Resumed

THE COMMISSIONER: Yes, Mr. Percival?

MR. PERCIVAL: Good morning.

CROSS-EXAMINATION BY MR. PERCIVAL:

Q. Miss Nelles, we are now in April 1984 and now three years since you were charged with four counts of first degree murder and you were discharged in May of 1982. Is that correct?

A. That is right.

Q. I guess many things have happened to you in the past three years, some of which you have told Mr. Sopinka about, about being off work and now you are finally back at work?

A. Right.

Q. I gather in the course of those three years you have looked forward to coming to this Commission to give evidence about what happened in those nine months?

A. Yes.

Q. And you want to tell what happened in those fateful nine months over three years ago, something you have really not done before, even up until this week. Is that correct?

A. No, I have not testified before.



A.2

1

2

Q. And that is important to you
to come here to give evidence fully and truthfully?

4

A. If I can help, yes.

5

Q. Before I start in examining you
I want to respond to something this morning that a
lot of people including your own counsel have
suggested, that I may in the course of examining you
tend to indicate that this may be an extension of
the Police investigation and the Crown prosecution.
I want to say again to you as I said yesterday to
the Commissioner, my aim in examining you is to make
sure all the facts come out. Do you understand that?

12

13

A. Yes, I do.

14

Q. I guess I want to ask you at
the outset, probably one of the most important things
that has to be done in this Commission is to find out
how these 36 babies died, to provide some answers to
those 72 parents out there about the questionable
deaths. Isn't that true?

18

19

A. That is true.

20

Q. That is I guess what we are going
to try to accomplish and that is what the purpose
of my questioning to you is. You want to and I want
to try to get the fullest explanation to this
Commissioner about what you recall about those 36

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22

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24

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A.3

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deaths. Isn't that right?

3

A. Right.

4

Q. So that on that understanding,

5

let me begin, and one of the things I guess that you

6

are well aware of now in hindsight, three years later,

7

is this is to a certain extent an inquiry into the

8

activity, into a certain nursing team of which you

9

were one of the participants?

A. That is not the way I look at it.

10

Q. You don't look at it that way?

11

Well, insofar as the nursing team that you were

12

involved in I gather if one looks at that exhibit

13

that you had yesterday there were sure a lot of baby

14

deaths that involved your nursing team?

A. That is right.

15

Q. 29 of them I think to be precise

16

of the 36, if I read Exhibit 383.

17

THE COMMISSIONER: Actually it is 33.

18

MR. PERCIVAL: 33. Thank you, Mr.

19

Commissioner.

20

Q. In any event, would you agree

21

with me if you are going to look at what happened to

22

these babies, at least 33 of them, the people best

23

able to give the fullest and best evidence about

24

what happened to them should be the people who were

25



A.4

1

2

on shift before they died and when they died?

3

A. Yes.

4

Q. And I gather when The Hospital

5

for Sick Children set up the nursing teams it was for

6

the purpose, was it not, so you would know who you were

7

working with in the course of looking after the babies

8

in 4A and 4B?

A. That is one of the reasons.

9

Q. And I suppose a team whether or

10

not it is a baseball team or a hockey team has weak-

11

nesses and strengths, just like a nursing team has?

12

A. That is right.

13

Q. And do you agree with me that

14

for a team to be effective, for a nursing team to be

15

effective, that they should give support to each

16

other in periods of stress?

A. Yes.

17

Q. Do you agree with me that where

18

one member of that team falters or fails the others

19

must pitch in to ensure that really the patients don't

20

suffer?

A. That is right.

21

Q. Do you agree with me that really

22

the idea of a team is to make sure that each member

23

is aware of each team member's skills and weaknesses?

24

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A. I don't know whether that is all that important.

Q. Did you think it was important during those nine months?

A. That I be aware of my colleagues' weaknesses?

Q. And strengths. That is what I see in those evaluations. That is what you have to do every six months.

A. But I did not evaluate my colleagues.

Q. But you knew about their weaknesses and strengths?

A. To some extent, yes.

Q. You knew about your own weaknesses and strengths?

A. Certainly.

Q. You expected, since you completed one of those self-evaluations, you expected all the other members of the team to do the same thing?

A. For --

Q. For themselves?

A. For an evaluation that took place with the head nurse.

Q. I understand. But really for



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the nursing team in 4A and 4B to be successful I
gather they must work together?

A. That is right.

Q. And they must effectively and
successfully give good nursing care so that those
babies will survive while in the Hospital to the best
of the nursing team's ability?

A. Yes.

Q. So they will leave the Hospital
alive, right?

A. There are other people involved
as well.

Q. I understand, but I am talking
about the nursing team.

A. Right.

Q. Let us look if I may at the
beginning about the make-up of the team with which
you were concerned. The make-up as I understand it
really from probably September on, and I am not sure
when Janet Brownless joined the team, is that your
recollection, somewhere in September?

THE COMMISSIONER: I think it was the
31st of August.

MS. CRONK: The 25th.

THE COMMISSIONER: The 25th of August.



A.7

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2

MR. PERCIVAL: So I am not too far
wrong.

3

4

Q In any event from the 25th of
August on through to March 22nd the make-up of your
team, at least what you regarded as your team, were
five. Is that correct?

5

6

7

A. That is right.

8

9

Q One was Janet Brownless and she
was an R.N.A.?

10

A. That is right.

11

12

Q Did you know something about her
before she joined the team?

13

A. She had worked on our team on
several occasions, yes.

14

15

16

Q Do I understand she had graduated
as an R.N.A. only a brief period of time before she
joined your team?

17

A. I believe that is true, yes.

18

19

20

Q And Marianna Christie -- do I
take it that she was a fresh graduate, Janet Brownless,
but she may have been so far as months or weeks or
years short on nursing experience. Is that fair?

21

22

A. She had not worked in the
Hospital, no.

23

24

25

Q Or in any hospital?



A.8

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A. No, she had just finished her course.

4

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6

Q. Thank you. Now, we turn to the second member of the team, Marianna Christie. She also was an R.N.A.?

7

8

9

A. That is right.

10

11

Q. She started, according to the evidence, as an R.N.A. at The Hospital for Sick Children in 1960. Did you know that?

12

13

14

A. I knew she had worked in the Hospital for a long time, yes.

15

16

Q. She had been in fact in the Hospital for over 20 years as an R.N.A. before you became a member of her team, or vice-versa?

17

18

19

A. Right.

20

21

Q. I guess one would then describe her as being rather long on nursing experience?

22

23

24

25

A. Yes.

Q. The oldest member of the team and the oldest in experience?

A. That is right.

Q. Sui Scott, the third member of this nursing team, had according to the evidence been out of nursing for some 10 years before returning to nursing at The Hospital for Sick Children. Did



A.9

1

2

you know that?

3

A. Yes, I did.

4

Q. She was older than you?

5

A. Yes, she was.

6

Q. She had gone through a two-year nursing course. Was that your understanding?

7

8

A. I am not sure what her training was.

9

Q. She had not gone to university?

10

A. No, I knew she had done her schooling in England.

11

12

Q. In any event, she had been out of nursing for 10 years and then joined your team and while she had been out longer, graduated longer, she was sort of getting back into the track of nursing after being away from it for 10 years?

13

14

15

16

A. Right.

17

Q. Then we deal with Phyllis Trayner. I think the evidence was at the preliminary hearing that she had completed a two-year nursing course at St. Joseph's Hospital. Are you aware of that?

18

19

20

21

A. Yes, I am.

22

Q. Again, that is not a university course?

23

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A. Right.



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Q. That was some time in the year
19 -- do you remember what year that was - I am sorry,
I don't have that at my fingertips?

A. I am not sure when she graduated.

Q. She graduated before you did in
1978?

A. I think so, yes.

Q. And she had worked at The Hospital
for Sick Children and at other hospitals much longer
than you had?

A. Longer than I had, yes.

Q. By the time you started with
the team, is what I am getting at?

A. Right.

Q. And she had I gather, before you
became a member of the Phyllis Trayner team, gone
through a team leader course?

A. Yes.

Q. And had, fairly, far more experience
at being a team leader than when you joined this
Hospital for Sick Children?

A. She did not start to be a team
leader until we moved to 4A.

Q. Do I take it she was a nurse
before that and went through a team leader course and



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then when 4A and 4B were created out of 5A that she became a team leader?

A. I believe so, yes.

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Q. Did you know anything about Phyllis Trayner's background in nursing, medicine, or anything, prior to the time you commenced to work with her?

A. I knew that she had worked at another hospital before she came to Sick Children's.

Q. Did you know what type of hospital and what type of nursing she had been involved with?

A. Yes, I did.

Q. What was that?

A. She worked at St. Joseph's Hospital in Neurology.

Q. And do I take it that when you first met her that that may have been the first time that she became involved with pediatric nursing?

A. I don't know how long she had been on 5A when I got there.

Q. Now, I think you have given evidence to Mr. Sopinka, turning to the fifth member of the team, yourself. Your father was a successful pediatrician in Belleville?

A. Yes, he was.



1

2

3

Q. For how many years did he
practise?

4

5

A. I can't say exactly, somewhere
in the neighbourhood of 20 to 25 years.

6

7

8

Q. And I understand that he was
a prominent pediatrician in Belleville and well
respected?

9

A. I think so, yes.

10

11

12

Q. And your brother and you both
decided to go into some field of medical training
I gather about the same time, is your brother older
than you are?

13

A. Yes, he is.

14

15

16

Q. And he decided to go to
Queens University for the purposes of taking a
medical degree?

17

18

19

20

21

22

A. He enrolled in pre-medical
school, yes.

23

24

25

Q. And shortly thereafter, a
couple of years later I guess in 1974 you enrolled
in a four year university course that would give
you a Bachelor of Science or a Bachelor of Nursing
Science degree?

A. Right.

Q. And do I take it that one of



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the reasons a young woman such as yourself in
contemplating a nursing career might do one of
three things I guess, might contemplate going and
taking an RNA course?

A. Right.

Q. Might contemplate taking a
two year registered nursing course?

A. Right.

Q. And might further contemplate
taking a university four year course with university
courses and probably a lot more than just ordinary
nursing courses?

A. It was all - it was a nursing
science course and the courses were geared towards
nursing, yes.

Q. I understand there would be
some courses, for instance religion and other
matters that might not be really germane to nursing,
religion and I guess --

MR. SOPINKA: Is there a nursing
religion?

MR. PERCIVAL: I'm sorry, I thought --

THE COMMISSIONER: No, no, you said
religion twice, and I am not too sure that there
isn't --



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MR. PERCIVAL: Q. Tell me the

courses that you took that the people that took a
two year course would not take, at university?

A. Well, I mean I went for four
years so I would take full year courses in micro-
biology, in biochemistry and anatomy and physiology.

Q. Do you feel that having
graduated in that four year university course that
perhaps you are better equipped than the nurses that
had gone through a two year nursing course through a
community college, or through a hospital training?

A. I think that there has to be
some advantage to the fact, or you have to take it
into account that it is a four year course as
opposed to two years, and hopefully in four years
you do more than you do in two years. But I am
saying I think the focuses of the two courses are
quite different and I would not say one was better
than the other.

Q. Well, one of the purposes I
gather that you took a university training, it is
often used by people as a basis for senior supervising
nursing functions, getting to be a head nurse quicker,
getting to be a nursing supervisor quicker, would
you not agree with me?



Nelles, cr.ex.
(Percival)

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A. That was not my intention, no.

3

Q. Do you agree with me that many

4

of the nurses that you went to school with in

5

university did that for that purpose?

6

A. I don't know.

7

Q. Do I take it you never

8

discussed that with any of your confreres at Queens?

9

A. We all had different goals

10

and aspirations I would say.

Q. What was your aspiration?

11

A. I wanted to be a nurse, but

12

I also wanted to sort of enjoy the benefits of a

13

university education as well.

14

Q. If I look at the team, and

15

I would like you to look rather introspectively as

16

we named them, the five of them with the training

17

and the education. Do you agree with me that given

18

the makeup of this team in the course of those nine

19

months, there were probably only two of you, Phyllis

20

Trayner and yourself, that would probably likely

21

take the initiative at times of stress, or when

22

important nursing decisions had to be made on 4A/4B,

given the makeup of that team?

23

A. Well, I think there are other

24

team members as well.

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Q. I am talking about those five.

A. I would hope that Mrs. Scott had input into the team as well.

Q. I didn't ask about input, I am asking about taking the lead. Because you see we have heard the evidence that you had aspirations to be a team leader; Phyllis Trayner was the team leader, and in fact when you were in fact the assistant team leader when we came to the month of March, 1981.

A. Right.

Q. The reason that you were a leader surely is the fact that you take the initiative.

A. I was the backup team leader to Phyllis Trayner.

Q. But again looking at the team, the five members of the team, when there were problems is it not fair to say that both you and Phyllis were the ones that were expected, in your team, to take the initiative, to do what was required?

A. If Sui Scott was assigned to the patient that was in question then it would be her responsibility as well.

Q. I understand her responsibility, but I am talking about times of critical nursing



1
2 decisions, when there should be a Code 23, when
3 there should be a Code 25, when there is an arrest,
4 that is what I am talking about, critical nursing
5 decisions. Was it not surely something that you
6 and Phyllis would have to take the initiative on
7 given the makeup of this team?

8 A. We were the only two who took
9 on the team leader function, yes.

10 Q. Thank you. Now, Mr. Hunt
11 yesterday dealt at some length with your relationship
12 with Phyllis Trayner and I don't propose to go into
13 that again. I think you told him that you saw
14 Phyllis Trayner outside of the Hospital on rare
15 occasions when you would have nursing parties or
16 when you would have Christmas parties, for instance,
17 for the ward.

18 A. Right.

19 Q. You never saw Mr. and Mrs.
20 Trayner I gather on a personal basis where they
21 would invite you over for dinner for instance, you
22 alone?

23 A. No.

24 Q. And did you ever see Mrs. Trayner
25 over, did you have her over to your apartment?

A. No, I did not.



Nelles, cr.ex.
(Percival)

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Q. What about your relationship with the other members of the team, Janet Brownless, was there anything more or anything less than what you have told us about your relationship with Phyllis Trayner?

A. No, there was not.

Q. What about Marianne Christie?

A. No, there was not.

Q. What about Sui Scott?

A. No, there was not.

Q. Well, of all the members of the team that I have described would you say that you were probably closer to Phyllis Trayner than the other three?

A. No, I would not.

Q. What about the other nurses over on 4B, I gather you knew Bertha Bell well?

A. Yes, I did.

Q. Was she a close friend?

A. We socialized, yes.

Q. Well, of all of the nurses that have been involved in 4A/4B in the nine month period, was there any other nurse that you were closer to other than Bertha Bell?

A. There was a few others that I



1

2

socialized with on occasion, as well as Bertha Bell.

3

4

Q. I understand that. I am
talking about was there, anyone else that you were
more closer to?

5

6

A. No.

7

8

Q. And do I take it from what you
say you were a lot closer to Bertha Bell than you
were to Phyllis Trayner from the standpoint of
socialization after work?

9

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A. I was closer to her, yes.

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Q. Yes. Have you seen Bertha Bell from time to time since the events of March of '81 even up to the present day?

A. At various times I was advised by my lawyers that I should not be in contact with the people who would be witnesses at the preliminary hearing.

Q. Miss Nelles, that's not what I asked you whether they advised, I am asking you whether or not you did have any contact or have anything to do with Bertha Bell since your arrest in March of 1981 to the present time?

A. Well, as I say, there were periods that I saw her and periods that I did not.

Q. I understand. So, do I take it your answer is, yes, you have seen her from time to time?

A. Yes.

Q. In the course of the past three years?

A. Right.

Q. Now, I want to deal with something involving nursing shifts. I gather that at some point in time the Hospital for Sick Children in their wisdom decided that they would move from



1
2
3 an eight hour shift to what is called long nights,
4 long days. Did that change occur once you joined
5 or after you joined the Hospital for Sick Children
6 or was it already in place when you joined?

7 A. It was already in place when
8 I joined.

9 Q. Do I take it then that if you
10 were going to be a nurse in the pediatric wards,
11 whether 5A or 4A/4B that it was a pre-condition of
12 your employment that you would agree to work long
13 days and long nights?

14 A. 12 hour shifts, yes.

15 Q. It wasn't an elective sort of
16 thing is what I am getting at.

17 A. No, it was not.

18 Q. And how many hours a week,
19 whether you're talk in terms of long nights and
20 long days, how many hours a week did you work?

21 A. It still averaged out to the
22 38½ or whatever it is.

23 Q. All right. So, do I take it
24 that you might work three long days in one week
25 and two long nights the next week but the average
was supposed to come out to around 38, 38½?

A. Hours a week?



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Q. Yes.

A. Yes.

Q. All right. Now, I want to take it from the other side of the situation where you have a patient on 4A/4B and that patient is in the Hospital from week to week. I do a little bit of calculation and I think that you take seven days a week and 24 hours a day that we have 168 weeks 178 hours in a week, do you agree with me on that?

THE COMMISSIONER: 168?

MR. PERCIVAL: Hours, yes.

THE COMMISSIONER: Yes.

MR. PERCIVAL: Q. Do you agree with me on that?

A. Certainly.

Q. Well, what I want to do that for is for the purposes of trying to determine, if I divide $38\frac{1}{2}$ into 168 we get less than a 25 per cent average exposure. Do you agree with me on that mathematics?

THE COMMISSIONER: Well, I do.

MR. PERCIVAL: Thank you. That's probably more important, Mr. Commissioner.

MR. SOPINKA: It shows he can divide.

MR. PERCIVAL: Q. Well now, I



1
2
3 gather that during the course of the nine months
4 there was more than one team; there was your team
5 and there were other teams looking after 4A/4B at
6 various times?

7 A. Right.

8 Q. And there were relief nurses
9 who came in from time to time?

10 A. Right.

11 Q. And if you had a patient who
12 may have been on constant nursing care say for the
13 whole week that patient would be exposed to one
14 nurse, no more than 25 per cent of the total
15 collective time on the ward. Do you agree with me
16 on that?

17 A. If that's your calculation,
18 yes.

19 Q. All right. And I gather that
20 it even might be less if one takes into account
21 sickness of people on the teams, vacations, that
22 sort of thing?

23 A. Right.

24 Q. All right. So that if we have
25 Patient A, if that patient was in the entire week
and being looked after by a series of nurses whether
on long days or long nights, from a statistical



1
2 standpoint that patient would never be exposed to
3 one nurse more than 25 per cent of the time?

4 A. Fine.

5 Q. Thank you. When you came to
6 give evidence this week before this Commission, I
7 gather you reviewed, as I am sure you must have,
8 many documents?

9 A. Yes, I did.

10 Q. One of the problems is we some-
11 times feel that we are drowning in documents. Did
12 you feel that as you were reviewing the matters that
13 you had a lot of documents to look at before you
14 gave evidence?

15 A. Yes.

16 Q. And do I take it that you were
17 personally present when the preliminary hearing took
18 place?

19 A. Yes, I was.

20 Q. And I take it you reviewed
21 the preliminary hearing transcripts before you gave
22 evidence today, or this week?

23 A. No, I did not.

24 Q. You never read them?

25 A. I didn't have to, I was there.

Q. Thank you. And did you take



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notes?

3

A. No, I did not.

4

Q. Do I take it before you came

5

this week that you reviewed the Hospital charts for

6

the 36 babies?

7

A. Yes, I did.

8

Q. All right. Do I take it that

9

you were provided also with statements given by

10

Phyllis Trayner and other nurses who had given

11

A. I did not read a lot of those

12

statements, no.

13

Q. But they were provided to you

14

if you cared to read them?

15

A. Yes.

16

Q. Yes. We are now at Volume 126,

17

do I take it you were also permitted to read the

18

Commission's evidence and the nurses and doctors

19

A. I did not read it, no.

20

Q. I beg your pardon?

21

A. I was not given that to read,

22

no.

23

Q. Were you given summaries from

24

time to time of what was happening?

25



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A. I was kept up to date as to
what happened, yes.

4

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6

Q. All right. And then you also
had the benefit I gather, the benefit of your own
personal notes?

7

A. The ones that I had made, yes.

8

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11

12

Q. All right, yes. And those,
at least, we have been given three personal notes -
not notes but statements if I can use that expression,
they were first made public at least so far as my
clients were concerned on Tuesday and one yesterday,
do you remember that?

13

A. Yes.

14

15

16

17

18

Q. And they have been marked
exhibits and you have seen them marked exhibits.
I'm going to ask the question because I want to know
this. Insofar as those statements are concerned you
are in fact waiving the solicitor and client
privilege?

19

20

THE COMMISSIONER: She can take
advice on that.

21

22

23

MR. SOPINKA: I mean, I don't think
you can second guess my authority. I mean, I have
said that.

24

25

MR. PERCIVAL: It is in



1
2 Mr. Sopinka's book that you can't waive that way
3 with respect, Mr. Commissioner, and I don't know,
4 if he doesn't want to rely on -- that has to be
5 asked surely.

6 THE COMMISSIONER: No, but now
7 the documents are exhibits.

8 MR. SOPINKA: If my friend read
9 far enough you would find that when you produce
10 documents to the world, whether you had a privilege
11 or not, it's waived.

12 THE COMMISSIONER: Well, in any
13 event, I intend to be able, at least I consider I
14 am able to refer to them because they have now been
15 made exhibits.

16 MR. PERCIVAL: Thank you.

17 THE COMMISSIONER: Is that not
18 your understanding?

19 MR. PERCIVAL: That's all I'm
20 prepared to ask.

21 THE COMMISSIONER: Yes.

22 MR. PERCIVAL: Q. Now, could
23 you have Exhibit 392, 393 and 394 before you, please,
24 Miss Nelles. I must confess, Miss Nelles, I am
25 somewhat confused about the evidence on Tuesday and
the evidence yesterday about when and where and



1
2 under what circumstances you made them and perhaps
3 to assist me in understanding them, I gather in
4 point of time in making the statement about Kevin
5 Pacsai was the first notes that you made?

6 A. Yes.

7 Q. All right. And at Exhibit
8 393?

9 A. That's right.

10 Q. All right. What I would like
11 to know is, to the best of your recollection when
12 did you make these notes that are in your handwriting?

13 A. I'm not sure what date, it
14 was the Thursday.

15 Q. All right.

16 A. The week following the death
17 of Kevin Pacsai.

18 THE COMMISSIONER: The 19th?

19 MR. PERCIVAL: Q. That's the 19th?

20 A. The 19th.

21 Q. All right. Do I take it
22 that on Exhibit 393 there is some interlining,
23 some other notes? Do I take it that that is in
24 the handwriting of someone other than yourself?

25 A. Yes, it is.

Q. And is that either Mr. Cole



1
2 or Mr. Cooper?

3 A . Yes, it is.

4 Q . And do I take it that the
5 interlining, if I could use the expression, and
6 the additions to it were made at some later time
7 and certainly after your arrest on March 25th?

8 A. That's right.

9 Q. Would you be able to assist
10 me as to when in point of time that interlining was
11 done?

12 A. I believe it was some time
13 perhaps the second week in April.

14 Q. Well, what I would like to
15 know is this. Do I take it that on March 19th when
16 you prepared your portion of the notes of Exhibit
17 393 that you were doing it at the request of
18 Miss Radojewski for the purposes of what you
19 contemplated to be giving evidence at an inquest
20 involving the death of Kevin Pacsai?

21 A . She asked me to make notes
22 of what my recollection of the night was, yes.

23 Q. All right. I would like you
24 to tell me, having made those notes on March 19th,
25 when you returned to Toronto after receiving that
telephone call, did you meet or talk with any



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2

doctor about the death of Kevin Pacsai before you
made these notes?

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A. No, I did not.

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Q. Before you made these notes on March 19 did you look at the medical chart of Kevin Pacsai to refresh your recollection for the purposes of making these notes?

A. No, I did not.

Q. Do I take it then that up until the time you were arrested on March 25th of 1981 that you never had the benefit in hindsight of looking at the medical chart of Kevin Pacsai to refresh your recollection in aid of these notes?

A. No, I did not.

Q. May I deal with the next one.

I think in point of time and maybe you will be able to assist me, may I tell you for the purposes of this and I gather after your arrest your counsel, Mr. Cooper and Mr. Cole, were provided with the medical charts of Pacsai, Miller, Cook and Estrella?

A. They did not have them at the time that I made these notes, no.

Q. My understanding, and there will be later evidence about this, Mr. Commissioner, is that these medical charts were in fact delivered to Mr. Cooper of those four babies on April 16, 1981. Does that coincide with your recollection as to when for the first time you had a chance to look at those four charts?



D.2

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A. It is my feeling as I said that I made these notes before the medical records were made available to us.

5

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Q. Thank you. Then let us look, in point of time did you prepare Cook's before you prepared Miller's, or can you recall?

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A. I don't remember.

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Q. Thank you. May I deal with Allana Miller which is Exhibit 392 and in fairness to you I see half way down the first page in fact the absence of the chart is in fact noted by you because:

" ... this child had a diagnosis of single atrium and a couple of other defects which I cannot recall without the use of the chart ... "?

A. Right.

Q. So it is clear certainly from your own handwriting that you did not have the chart when you prepared all in your handwriting.

May I deal then with Exhibit 392 and again is it your recollection that when you prepared your notes with respect to Justin Cook it was without the benefit of any medical chart?

A. Are you talking 392 or 394?

Q. 394, thank you very much.



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A. No, I did not have the chart.

Q. Do I take it that when you prepared 392 and 394 you had conferred with Mr. Cooper and Mr. Cooper asked you for the purposes of defending yourself properly in relation to these charges that you should for your own benefit recall with as much degree of certainty and detail the events involving the deaths of Allana Miller and Justin Cook?

THE COMMISSIONER: Before you answer, that, Miss Nelles, I take it you are not objecting to this line of questioning? All right.

THE WITNESS: Mr. Cooper asked me to sit down and write notes on what I recalled of the evening in question.

MR. PERCIVAL: Q. But he also I suggest to you asked you to give as much detail as you could possibly remember?

A. No, he did not.

Q. All right. I want to deal with Exhibit 394 because I think it was with respect to this document, maybe it was not and maybe it was in respect to both, but let us deal with Justin Cook. On the first page, 394, most of that page I gather is in your handwriting?

A. Except for the writing in the margin, yes.



D.4

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Q And what about I think

"ventricular septal defect" opposite that same area?
Is again that in someone else's handwriting?

A I'm sorry, where are you looking?

Q Right opposite where the "right
ventricular" is set in. There is underlining there.
For instance there is "ventricular septal defect". Is
that your handwriting - about six lines down?

A That is my writing.

Q All right, thank you. So it is
only that which is in the margin, if I can use the
expression, is in someone else's handwriting?

A There are some underlining and
questioning and then above and I think the word is
"hypertrophy" there is a definition of what that is.

Q Is that your handwriting?

A No, it is not.

Q Thank you. May I deal with the
second page. Is there anything on that second page
that is not in your handwriting?

A No, there is not.

THE COMMISSIONER: The second page, are
we looking at 394?

MR. PERCIVAL: Yes.

THE COMMISSIONER: Is that your hand-



D.5

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writing at the bottom?

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THE WITNESS: Page 215?

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THE COMMISSIONER: Page 214.

5

MR. PERCIVAL: It is page 213, I think.

6

THE COMMISSIONER: Yes, all right, I
have it, thank you.

7

8

THE WITNESS: The only thing I see
that is not in my handwriting is above "D5W", again
a definition of what that means.

9

10

MR. PERCIVAL: Q All right. Dealing
with the third page, how much of that third page is
in your handwriting?

11

12

A. About two-thirds of the page.

13

14

Q Is it your handwriting where it
says:

15

16

"The babe then slept until approxi-
mately 0230"?

17

A. Right.

18

19

Q Below that, is the rest of that
Mr. Cooper's handwriting?

20

A. Yes, it is.

21

Q Does Mr. Cooper's handwriting
continue on to the fourth page?

22

A. Yes, it does.

23

24

Q And on to the part at least of

25



D.5

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the next page, which is the part I have got, in any
event?

3

4

A. Right.

5

Q. And all of that is in Mr. Cooper's
handwriting?

6

7

A. Right.

8

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Q. I was trying to follow your
evidence yesterday that you had partially completed
Exhibit 394 and then Mr. Cooper came in and said, well,
how far have you got and I would like to go in and
start to ask you questions and then starts to fill
this out in the first person. Is that the way it
worked?

13

14

A. I believe we took up from where
I had left off.

15

16

Q. I understand.

17

A. That is correct. He asked me
questions and we completed the writings together.

18

19

20

Q. Is it your recollection that this
was done, this further pick-up where you wrote, was
done the same day - was the document all created in
one day?

21

22

A. Yes, it was.

23

24

Q. And it was all created in one
day when you did not have the benefit of the Cook
medical chart?

25



D.7

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A. Right.

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THE COMMISSIONER: Were both 392 and 394 done on the same day, that is Allana Miller and Justin Cook, or you can't remember that?

5

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THE WITNESS: I am not sure. They were at least done pretty close together.

7

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THE COMMISSIONER: I just suggest this, and you don't need to accept it, and that is that you did Allana Miller first because it seems to be in your own handwriting throughout?

11

THE WITNESS: Right. That makes sense.

12

13

THE COMMISSIONER: And conceivably you got half way through Justin Cook when Mr. Cooper appeared?

14

15

THE WITNESS: That is right.

16

17

18

19

MR. PERCIVAL: Q Do I take it that after the statement was finished, that portion of that which was in the handwriting of Mr. Cooper was finished, you read over it, did you, to make sure it was accurate?

20

A. I don't remember.

21

22

Q Is it accurate, as far as you are aware, right now, to the best of your recollection?

23

24

25

MR. SOPINKA: Well I think, with respect, it is a pretty long statement - to ask whether



D.8

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all three statements are accurate --

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MR. PERCIVAL: I am talking about 394.

4

MR. SOPINKA: Well, the whole statement.

5

If he has some specific inaccuracy he should draw it
to her attention.

6

7

MR. PERCIVAL: I am not going at
inaccuracies. I just want to know whether she read it?

8

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THE COMMISSIONER: I think Mr. Sopinka
has a point. If there is any specific inaccuracy you
have in mind you have to put it to her. I will accept
though, whether she said it or not, to the best of
your ability you wrote down what was correct, did you
not?

14

THE WITNESS: That is correct.

15

16

MR. PERCIVAL: Q. And what Mr. Cooper
wrote down was correct as well, is what I am getting at?

17

18

19

A. Yes.
MR. PERCIVAL: I am sorry, my Lord,
that is what I was trying to get at, the fact that
Mr. Cooper was writing it down.

20

21

THE COMMISSIONER: Yes, that is right,
but if there is any specific inaccuracy --

22

MR. PERCIVAL: I will get to it in due
course.

23

24

25

THE COMMISSIONER: -- that you are going



D.9

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to rely on heavily, I think it would be better to put
it to her.

3

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MR. PERCIVAL: I quite agree.

5

6

7

Q. Do I take it from your evidence
that other personal notes were created, and I am not
going to get into them, but do I take it that you
did something similar for Baby Estrella?

8

9

A. Yes, except that Mr. Cooper
wrote it all himself.

10

11

12

Q. Was that again done on the same
day as Miller and Cook was done, to the best of your
recollection?

13

14

A. Some time around the same time,
yes.

15

16

17

18

19

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Q. Later I understand, and please
accept this statement that on January 4 of 1982 a
significant number or some 16 medical charts were
turned over to Mr. Cooper involving, as you said
yesterday, similar facts, evidence for the preliminary.
Do you recall seeing a great volume of medical charts
in Mr. Cooper's possession at that point some time
just before the commencement of the preliminary
hearing?

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A. I don't remember when it was
but I did see it, yes.



D.10

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Q. In any event you had an opportunity to go through those charts and make your own notes wherever you could?

A. Yes, it is my feeling that the preliminary hearing had already started.

Q. When you did that?

A. Yes.

Q. Do I take it that you looked at those notes as well for the purposes of refreshing your recollection before giving evidence about the various babies in this Commission this week?

A. Yes.

Q. Were those notes merely looking at the chart and catching highlights out of it or were they notes that you had independently of the chart?

A. No, they were really notes to help Mr. Cooper.

Q. Mr. Hunt yesterday covered with you a number of babies and I don't wish to go into it again but one of the things that concerned me as we heard Mr. Lamek questioning you and you giving the answers, there were a significant number of the babies where you gave the same response to Mr. Lamek that "I do not have any independent recollection of



D.11

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the events surrounding the death of this baby other than in the chart." Do you remember that question being put to you and over and over again, and saying yes.

A. Yes.

Q. For the purposes of the record, Bilodeau is at 8015, you said that?

A. Yes.

Q. Hoos is at 8004 and 8002, you said that?

A. Yes.

Q. Those were two babies that you were personally nursing on the night that they died?

A. Yes.

Q. Turner 8058, again you nursed that baby on the night he died and you have no independent recollection?

A. Right.

Q. Monteith, you were nursing that baby on the night he died. At 8070, you have no independent recollection?

A. Of the night he died, right.

Q. Gage, you were team leader, at 8089 you have no independent recollection of the events surrounding her death?

A. Right.



D.12

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MR. TOBIAS: Excuse me, Mr. Commissioner,

3

I take it this is all Volume 123?

4

MR. PERCIVAL: Yes.

5

Q. Baby McKeil, 8103, you nursed

6

that baby on the shift that he died. Again you have

7

no independent recollection save and except the

8

medical chart?

A. That is right.

9

Q. Before I leave that, I was

10

wondering as a response to a question about Pacsai's

11

.25, you said McKeil had a very high digoxin level. I

12

looked through that chart. I can't find anything

13

greater than 4.7. Do you know something more than

14

that?

A. It was my understanding that -

15

we had a blood workbook on the floor where the ward

16

clerk would record the results of various tests.

17

Q. Is it your recollection that

18

you saw a digoxin level for McKeil on the ward that

19

said something other than only greater than 4.7?

20

THE COMMISSIONER: I thought we had

21

one that was 5.6?

22

MR. PERCIVAL: I am talking about

23

McKeil.

24

THE COMMISSIONER: Are you talking about

25

McKeil?



D.13

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MR. PERCIVAL: Yes.

THE WITNESS: I cannot remember exactly what I saw but it was the largest level I had noted.

MR. PERCIVAL: Q What was that level, then?

A. I don't recall whether it said greater than 4.7 or whether it said greater than 10.

Q In any event, you have no independent recollection of the death of that baby?

A. No, I do not.

Q Baby Lutes, at 8117, again aside from the medical chart you told Mr. Hunt that that baby under your care, you have no independent recollection of the events surrounding that baby's death?

A. Right.

Q Baby Gosselin was under your care, 8121, and again you have no independent recollection of the events surrounding that baby's death even though it was under your care, other than the medical chart?

A. Right.

Q Baby Warner, you were team leader on the death of that baby, 8172, and again while you



D.14

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participated in the arrest and resuscitation attempt
you have no independent recollection?

3

4

A. No, I don't.

5

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Q. Baby Gionas, 8182, again the
same thing. You were team leader, participated in the
arrest, but you have no independent recollection of
the events surrounding the death of that baby other
than the medical chart?

9

A. Right.

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Q. Mr. Hunt put it to you yesterday
and asked why if these were traumatic events, stress-
ful events involving the deaths of babies, why you
don't remember more, and I can't remember your answer.
What was it?



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A. Well, basically a lot has taken place since that time and there was no reason to remember specific details.

Q. Was it because that it was one after the other, after the other, and one death merged with the next death, merged with the next death?

A. That's part of it, yes.

Q. Because they were all the same.

A. Not necessarily that they were all the same, but that in your thoughts an arrest situation in many ways is exactly the same, and so to recall an arrest situation-they all melded into one in my memory.

Q. I can see that if you go back in July, but as we get closer in March when the events surely should have been far fresher in your mind at the time you were arrested, why you can't remember for instance Warner and Gionas, why you can't remember Gosselin?

A. I just - I had no reason to question anything that took place, and as I say we are three and a half years away from that and it was never brought to my attention.



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3 Q. Quite apart from being brought
4 to your attention. Do you know, I looked at those
5 deaths, and Mr. Lamek talked in terms of 15, whether
6 or not it is 11, 12, 15, those were the only baby
7 deaths and the only deaths of patients with which
8 you were ever involved; am I correct, up to that
9 point in time? Did you ever have any baby deaths
out in Vancouver when you were a nurse?

10 A. There were a few, yes.

11 Q. That you were nursing?

12 A. Not directly at the time, no.

13 Q. So these were the beginning,
14 if I can use it, Bilodeau and carrying on, these
15 were baby deaths of patients that you were supposed
16 to nurse and supposed to nurse effectively and they
died.

17 A. Right.

18 Q. And yet it merged, did it not,
19 one after the other, so that when you get to four or
20 five you can't remember what happened at one because
they are all the same?

21 A. They were not all the same in
22 my mind, no.

23 Q. Well tell me what you remember
24 about Bilodeau? Tell me what you remember about
25



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Bilodeau, you couldn't say anything on Monday, can you say something now that you recall specifically about that arrest?

5

A. No, sir, because that is four years ago.

6

7

Q. Did you ever have such a memory?

8

9

A. I am sure I did.

10

Q. Did you have such a memory in the month of March when you were arrested?

11

A. No, I did not.

12

Q. So do I take it that even if

13

I had asked you at the end of March, 1981 about

14

Gosselin, Warner, Gionas, that had taken place less

15

than a month before, you still could not have assisted us any more than you have today?

16

A. I doubt it.

17

Q. Quite apart from being asked,

18

as Mr. Lamek fairly did to you, about, do you have

19

any independent recollection of these events? He

20

also asked you a collateral question in each and

21

every case. That was, did you administer the

22

medication shown in that child, to that child, all of

23

which were authorized, and in each and every case,

24

and I will go through the same thing, you said "Yes,

25



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I did". Do you remember saying that after each baby
that he brought up?

4

A. Yes.

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A. Because my name appeared as
signing off the medication as given, and that is
part of my training as a nurse, that when I am
assigned to a patient I am assigned to give him his
medication.

14

15

Q. Well, your own counsel at 7967
said:

16

17

18

19

20

"Do you know of any instance in your
experience where you had thought you
had given medication when you didn't?"
And your answer was: "No". Do you remember that
question being put by Mr. Sopinka and you answering
that?

21

A. Right.

22

23

24

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Q. And then we went from there
and we found in the course of all these baby deaths
that there were three, if I can use the expression,



Nelles, cr.ex.
(Percival)

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three charting errors?

3

A. Right.

4

Q. Now, one was with respect to

5

Dawson where you didn't sign off the medication

6

you had given to that child before its death?

7

A. Right.

8

Q. One was Baby Fazio where the

9

same thing happened, you didn't sign off the

10

medication in the chart that you had given just

11

before that baby's death.

A. Right.

12

Q. And then we talk about Baby

13

Miller where in fact somebody else gave the medica-

14

tion and yet you signed the medication off?

15

A. Right.

16

Q. How many other times could

17

that have occurred with those babies in the course

18

A. I don't think it ever did.

19

Q. How can you be sure?

20

A. I guess you can never be

21

sure, but I feel that in my own mind I am sure.

22

Q. You talked in your evidence,

23

in Volume 123, and I want to talk in terms about

24

filling out the medical charts, at 7964. I think

25



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that in answer to a question about how you do in the normal case involving a baby, Miss Nelles, how you put down accurately in a medical chart what you have done to the baby during the course of the 12 hours.

3

4

5

6

A. Right.

7

8

Q. And I think your evidence was that at the end of the shift you write the progress notes, you sign off any medication, and you record the vital signs.

10

11

A. Right.

12

13

Q. Is there anything else you do in the medical chart at the end of the shift on an average baby?

14

15

A. No.

16

Q. The chart in question I gather is kept at the nursing station?

17

A. Yes, it is.

18

Q. And I think you have said, and I was trying to follow that, that not all of the chart is kept at the nursing station in certain cases?

21

22

A. In the majority of cases, yes, the medical charts are kept at the desk.

23

24

Q. I think you said something,

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and I am trying to refresh my recollection of it;
you said sometimes the page of the flow sheet for
the chart, in other words that records the vital
signs, is kept by the bedside of the baby?

A. If they are on Q1 vitals,
yes.

Q. All right. Q1 meaning once
very hour?

A. Yes.

Q. And once every hour is supposed
to mean on the hour as well as you can do it?

A. Hourly vital signs, yes.

Q. And is that the only time when
the portion of the chart is left at the bedside of
a baby?

A. It is the only time that I
can think of, yes.

Q. And that is the only part of
the chart that is left by the bedside of the baby?

A. That's right.

Q. And that is the only thing
you can recall ever having occurred in the nine
months with which we are concerned?

A. It is all I can remember, yes.

Q. The Commissioner asked you



1

2

shortly after, at page 7966, about how you know you gave a certain medication, do you remember the questioning in that?

5

A. Yes.

6

Q. We heard in this Commission from other nurses their utilization of what was called "cheat" sheets. Have you ever used that expression?

8

A. I call them my crib notes.

9

Q. Your crib notes?

10

A. Yes.

11

Q. And did you use that practice during the course of the nine months with which we are concerned?

13

A. Yes, I did.

14

Q. And the crib notes, are these just a loose piece of paper that you take at the beginning of the shift when you take report, learn your assignment, read the medical chart and then go to look at the baby, is it is just a blank sheet of paper when you start?

19

A. No, it is not.

20

Q. What is it?

21

A. At the beginning of a shift when - these are my own personal notes.

22

23

Q. Yes.

24

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A. When I come on the shift I go to the assignment book and find out what my patient assignment is. Then I go to the medical charts and look at what we call the nursing care plans or the cardexes, and found out what the actual diagnosis of the children were. So writing these things down, diagnosis, how often their vital signs were to be done; how often they were to be fed if they were infants; what medications they were on.

Q. The time of the medication?

A. Right.

Q. Do I take it you also, quite apart from taking report, particularly on a constant nursing care thing, you would look at the progress notes for the previous shift?

A. If you had time you might, yes. Perhaps not right at the beginning of the shift but some time during --

Q. Well, then you took these crib notes, or crib sheets if we can use that, you take it around, and say you have got three or four babies, do I take it that you keep filling out the crib notes throughout the course of the 12 hours before you begin your final notes on the chart before you get off shift?



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A. I didn't fill it out so much that it was used as a reference and that I was constantly referring to check to see what the orders were on that particular child.

Q. But would you add something to the crib sheets. In other words, would you just have something written there as you wrote at the beginning of the shift and then follow that as a game plan if I can use that expression, for these babies during these 12 hours.

A. Off times you would write the vital signs and whatnot that you were going to transfer on to the --

Q. I take it that you also would add to that, times, vital signs?

A. Pardon me?

Q. Would you put down the time and then the vital signs?

A. Well, also, as well as my own personal notes at each bedside would be a rough sheet for each of the babies.

Q. Well, you see I'm a little concerned about that. What was that rough sheet, did that ever find its way into the medical chart of any of the babies?



1

2

A. It was actually directly

3

transferred on to the vital signs sheet and you

4

used it when you were writing your progress notes

5

and whatnot.

6

Q. And then what did you do,

7

destroy the rough sheets?

8

A. That's right.

9

Q. So that at the end of anybody's

10

shift, including the shift at the end of any of

11

the baby deaths with which we are concerned, the

12

rough sheet, if I can use that expression, is used

to finalize the chart and then thrown out?

13

A. Sometimes they were kept for

14

several days, the nurse who was actually looking

15

after the patient could refer back a couple of

days to them right at the bedside.

16

Q. Whose duty was it to keep

17

those, or who would keep them, did you just leave

18

them at the medical station, did you take them home

19

with you, who would do it?

20

A. They were kept at the children's

21

bedside.

22

Q. Well then, do I take it you

23

would have a rough sheet by the bedside, I take it to do

24

your notes at the end of the shift, and then would

25



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you take the rough notes back or would you put them
in the wastepaper basket, put them in your purse,
what would you do with them?

5

6

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A. You would either throw them
out or else as I say leave them and just add a
new sheet to the next shift.

8

9

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11

Q. Do I take it, and let's deal
with the last two, that so far as Baby Allana Miller
and Baby Justin Cook, there were two such rough
sheets with respect to those babies available at
the end of the shift?

12

13

A. I don't remember; there was
one.

14

15

Q. Did you ever have a rough
sheet on either of those babies?

16

A. There was one at least.

17

18

Q. And certainly when Justin
Cook died, that was the baby that was under your
care, did you have such a rough sheet for that baby?

19

A. I am sure I did.

20

21

Q. And did you destroy it after
the death?

22

A. Probably.

23

24

Q. We have heard about Phyllis
Trayner having given medication to Allana Miller

25



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because you were busy with Justin Cook at that time?

3

A. Yes.

4

Q. And you signed for it, and

5

as you candidly admitted that was an error. If

6

that had, in the course of those nine months, did

7

an event ever occur when you gave medications to

8

a child that was under the care of another nurse?

9

A. Did I ever do that?

10

Q. Yes, during that nine month
period?

11

A. Well, as an RN I gave medica-

12

tion to the patients that the RNAs were looking

13

after.

14

Q. I understand that. I am

15

talking about so far as other nurses, Sui Scott.

16

A. I don't recall.

17

Q. Phyllis Trayner?

18

A. No, I don't remember ever
giving their medications.

19

Q. Well, if you did give medica-

20

tions, again as you have said to Mr. Sopinka, your

21

recollection is that whenever you gave medications

22

you did your best, aside from Fazio and Dawson, to

23

get it down on the chart and sign it off properly?

24

A. Yes.

25



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THE COMMISSIONER: Would you do that in your name, or would you do it in the name of the nurse you were replacing, or when would you do it?

THE WITNESS: Well, he was asking me if I signed off my medications.

THE COMMISSIONER: No, no, I thought this was the record.

MR. PERCIVAL: Yes, that is what I am talking about.

THE COMMISSIONER: The record of the medications in the chart.

THE WITNESS: Are you saying when I gave them for other people?

THE COMMISSIONER: Yes.

THE WITNESS: I didn't give them for other people except for when I was team leader and I was giving it for RNAs.

THE COMMISSIONER: All right. Yes, but when you did that?

THE WITNESS: When I gave medications for RNAs?

THE COMMISSIONER: Yes, when would you put it on the chart?

THE WITNESS: Normally when I was team leading I would do that almost immediately



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2

because the chances of forgetting were greater
because I would not be charting about each of those
children at the end of the shift.

3

4

5

MR. PERCIVAL: Q. You might have,
because you may have two RNAs on and you may have
six or seven children under their care requiring
medications.

6

7

8

9

A. Right, and if I didn't do it
then I might forget.

10

11

12

13

Q. Would you as team leader then
also have a crib sheet for those babies to be sure,
in other words, that you were giving the right
medication to the right child?

14

15

16

A. I would often go to the charts,
yes, and look up the medications that they were on
to make sure I had them all.

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BM/PS

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Q. To your knowledge in the course of nine months with which we are concerned, did you ever know of a case of an RNA giving medication to a baby on these wards?

A. No, I did not.

Q. You have indicated in the course of your evidence that you recall specifically Phyllis Trayner coming to the - and we are dealing with the night that Allana Miller died.

A. Right.

Q. And I want to deal with Allana Miller and I'm not being fair. I should premise that because there are so many babies and it is difficult for both me and perhaps you to end up seeing where I am going.

So, let's deal with the night that Allana Miller died. I'm continuing on with the medication questions. You have indicated to Mr. Hunt that you can specifically recall Phyllis Trayner coming to the room where Justin Cook was being looked after by yourself. Was that about 1:00 in the morning?

A. Yes, it was.

Q. All right. And you recall her specifically saying, or whether you asked her or she saying or volunteering, however it came about, she had



Nelles
cr. ex. (Percival)

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the actual syringe and the actual vial of, is it
gentamicin?

A. That's right.

Q. And you saw that and it had not
yet been administered to Allana Miller.

A. Right.

Q. As far as you know.

A. That's right.

Q. And then after Allana Miller died
you mistakenly, and you have said that, signed that
off yourself even though you did not give it.

A. Right.

Q. When did you first recall that
occurring; in other words, that she came to your
room where you were looking after Justin Cook, showed
you gentamicin and then went presumably to give
that to Baby Miller.

A. I don't remember when I recalled
it.

Q. Well, you said to Mr. Hunt I
believe yesterday that that is something that you have
no difficulty in remembering because it was somewhat
unusual.

A. It was unusual, yes.

Q. I have looked here on Exhibit 392,



3
1
2 and these are your notes made shortly after the
3 events about Allana Miller and the reference to this
4 I believe on the fourth page, four lines down:

5 "At approximately 0030 I returned to
6 418 where I put Justin in his crib
7 in 100% oxygen and settled him. While
8 I was involved in all of this, Mrs.
9 Trayner had given the I.V. antibiotic
10 to Allana Miller and had also done her
11 vital signs..."

11 A. Right.

12 Q. And then it goes on what Janet
13 Brownless was doing. I don't see any reference there
14 to that which you found or at least have said to Mr.
15 Hunt was something very unusual occurring that night,
16 her coming to Justin Cook's room and showing you what
17 she was doing.

17 A. Right.

18 Q. And to a certain extent I don't
19 see the approximate 1:00 in there as well.

20 A. Right.

21 Q. Is there any reason why it's not
22 there?

23 A. Because when I prepared these
24 notes I prepared them by myself and there were lots of
25



Nelles
cr. ex. (Percival)

1
2 things that I didn't realize that Mr. Cooper wanted
3 me to include in my notes.

4 Q. Well, at the time you made that,
5 surely you knew that what you were charged with was
6 the death of Allana Miller.

7 A. Right.

8 Q. And you have said to Mr. Hunt that
9 that is something that stands out in your mind. Why,
10 why two weeks after the event wouldn't you think that
11 that was something important for at least your own
12 counsel to know about a medication, an unusual event
involving someone else and Baby Allana Miller?

13 A. Because I thought it was sufficient
14 to tell him that Mrs. Trayner gave the medication.
15 I didn't know that I had to go into all the details
of how she gave it and where she gave it.

16 Q. Well, the point is this though,
17 that you were charged with the death, the murder of
18 that child. Had anybody ever in the course of nine
19 months ever done something that Phyllis Trayner did
20 that night in coming to you with a medication and
21 saying, I'll do it and see this is what I'm doing,
that had never occurred before, had it?

22 A. Well, she was giving a medication
23 for me.
24
25



Nelles
cr. ex. (Percival)

1
2 Q. I understand that. Had that ever
3 occurred in nine months?

4 A. That she was giving a medication
5 for me?

6 Q. For you, that you can recall now.

7 A. I don't remember, no.

8 Q. In carrying that on, you graduated
9 in September of '73, and this is up to March of 1981
10 and you had worked in Vancouver, you worked in excess
11 of two years as a nurse when these events took place.

12 A. Right.

13 Q. Had you ever known of any occasion
14 previous to the Allana Miller incident when someone
15 else administered your medication to a patient?

16 A. When I was busy, yes.

17 Q. When?

18 A. In Vancouver.

19 Q. All right. Not in the Hospital
20 for Sick Children?

21 A. Not that I specifically remember.

22 Q. Have you done it for other
23 nurses?

24 A. If they asked me to, yes.

25 Q. Do you recall having done that
in that nine month period?



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A. I don't know.

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THE COMMISSIONER: I'm sorry, I thought you said earlier that you don't remember giving medications for other nurses but you did give them for RNA's?

THE WITNESS: I gave them for RNA's, right.

THE COMMISSIONER: But you think you may have given them for nurses?

THE WITNESS: That may have been done but I don't remember specific occasions.

MR. PERCIVAL: Q. The reason that you gave in relation to your failure to properly chart medication in both Fazio and Dawson was the fact that the chart went off the floor before you had a chance to sign off the medication.

A. That's right.

Q. Did I take that correctly?

A. In response to Amber Dawson I was not very experienced with arrests and what went on with the chart afterwards and it is my feeling that I didn't realize that I had to finish the chart off quickly.

In regard to Fazio it is my feeling that somebody else had the chart for an extended period of



1
2 time and I did not get back to it.

3 Q. Well, let's deal with that a little
4 bit because I think you alluded to that somewhat
5 yesterday. After an arrest, after the death of a
6 baby, the nurse I gather who was supposed to be caring
7 for the baby, who had been assigned the baby, had
8 the requirement of completing the final nursing note.

9 A. Right.

10 Q. Presumably had the obligation to
11 complete the medication.

12 A. Right.

13 Q. Had the obligation to use, whether
14 crib notes or cheat sheets or whatever to complete the
15 vital signs so that the medical chart would be complete
16 before it left the floor.

17 A. Right.

18 Q. Also after an arrest I gather
19 that if somebody was keeping notes during the course
20 of an arrest what happened during the frantic and
21 chaotic time when the arrest was - resuscitation
22 attempt was occurring, to keep a record of the medica-
23 tion. That also should go into the chart.

24 A. Right.

25 Q. And then I guess the doctors who
were there are supposed to sign final medical notes



Nelles
cr. ex. (Percival)

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as well.

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A. Right, and write a note, yes.

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Q. All right. What I am getting at is that, is the chart inseparable; in other words, isn't there a flow sheet that you can take out of the chart and you work on that while the doctor works on something else and the person who has the arrest requirements, can't they be working on the chart, you know, all at the same time, rather than sequentially?

10

11

A. It's not usually the way it's done, no.

12

13

Q. Was it ever done in these nine months?

14

A. I don't recall ever doing it that way, no.

15

16

17

Q. But certainly the nurse that has the obligation to complete the final notes has to complete the final notes before it leaves the floor?

18

A. She should, yes.

19

20

Q. And that same nurse has the obligation to sign off the medication.

21

22

23

24

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Q. And in each case in both Dawson and Fazio you did complete the final notes but you forgot the medications.



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A. Right.

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Q. Thank you.

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Now, the final nursing notes, if I look at Exhibit 383 you and Phyllis Trayner were involved together on a shift, whether you as team leader or alternatively - let's count the numbers where you looked after the children themselves on this list: Bilodeau 1, Dawson 2, Hoos 3, Turner 4, Monteith 5, McKeil 6, Lutes 7, Gosselin 8, Fazio 9, Pacsai 10, Miller 11.

11

12

A. Excuse me, Pacsai cannot be included because Phyllis is team leader on 4A and I was on 4B.

13

14

15

Q. I'm sorry. And he didn't die until the ICU but you sure had to complete notes on your ward did you not before he left?

16

17

18

A. Yes, I did.

19

20

21

22

Q. Miller, whether that's 10 or 11 I don't know, and Cook whether that is 11 or 12.

It has been given in evidence by Phyllis Trayner at page 731 of the preliminary hearing that she assisted you or collaborated with you involving the final nursing notes involving Justin Cook.

23

24

25

A. Could be, yes.



Nelles
cr. ex. (Percival)

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Q. Right. Is that your recollection?

3

A. I don't remember that specifically,

4

no.

5

Q. She also said that she collaborated

6

with you with respect to the death of Allana Miller
in the final notes.

7

A. She could have.

8

Q. All right. Both of those final

9

notes are in your handwriting.

10

A. Right.

11

Q. Do you have a recollection of

12

her assisting you in the events that transpired because,
as I look at those notes, sometimes they go over a
period of 4, 6 hours.

13

14

A. Right. They usually go over the

15

whole shift.

16

Q. All right. Well, she is the

17

team leader, she was involved in the course of the
arrest. Do I take it you would collaborate with her

18

19

so that she could help you and refresh your - like,

20

two memories or two minds are better than one - in
order to accurately portray what events occurred
prior to the arrest and death of those babies.

21

22

A. Particularly in the case of Allana

23

Miller where I was not there for so much of the time

24

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I needed someone to help me to make sure that the recording of the events was correct.

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Q. Well, whether or not it is 11 or 12 and do you recall that on those occasions when Phyllis Trayner was team leader and you were the nurse that was in charge of the baby that died, did on each and every occasion Phyllis Trayner assist you in preparing the final nursing notes?

A. I don't remember that she helped me on all of them or even a great part of them. If she did help me it would not be during the course of the evening but would be more in terms of the actual final events and when the children showed difficulty and who arrived and what was done. Those were the times that I asked her assistance at times.

Q. All right. And so do I take it looking at either those 11 or 12 final nursing notes you are not able to tell me with any degree of certainty what is her information and what is your information? For instance, if I take a look at Baby Cook, final nursing notes of Baby Cook, that is Exhibit 116, Mr. Elliot. It is on page 29.

A. Thank you.

Q. This is on Cook. You have, as I read it, March 22nd, and was this completed after the



1

2

baby died?

3

A. Yes, it was.

4

Q. The previous note was also signed

5

by you. Perhaps I can ask you this. This was March

6

21st on Baby Cook. There was no progress note completed

7

by the nurse who looked after the baby during the long

8

day shift between March 21st and March 22nd, is that

9

right?

A. I'm sorry?

10

Q. There was no nursing note in the

11

progress notes during that time period on the long

12

day.

13

A. On the long day of March 21st?

14

Q. Yes.

15

A. Yes, there was.

16

Q. Well, I'm sorry, I'm looking at

page 28.

17

MR. SOPINKA: Page 27.

18

MR. PERCIVAL: I'm sorry?

19

THE WITNESS: Page 26 and 27 there is

20

a nursing note there.

21

MR. PERCIVAL: Q. I'm sorry, you are

22

quite right. Let's deal with page 28. The first nurs-

23

ing note takes us from the place of 1900 to 3:00.

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Now, when was that completed, after 3:00?

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A. After the death of Justin Cook.

Q. So, do I take it all of the bottom half of page 28 and all of page 29 was completed after the death of Baby Cook at 4:56 in the morning of March 22nd?

A. Right.

Q. Can you tell me in the course of those notes what information was given to you by Phyllis Trayner and what was your information, contribution to these notes?

A. The note that precedes 1900 to 0300, as you will recall, Mrs. Trayner fed Justin Cook at 2:30 and she informed me of what she had fed him and the amount.



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G/DP/ak

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Q. I'm sorry, where are you
reading from and I apologize, I'm trying to follow.

4

5

A. I'm reading the notes with
reference to the note of 1900 to 0300.

6

Q. Yes.

7

8

A. And as I say I'm trying to
explain that Phyllis Trayner fed Justin Cook at
0230.

9

10

Q. That is the third line from
the bottom?

11

12

13

14

A. Right, with regards to
nutrition, and she gave me the information about
his feeding at that time. Other than that, the
note is written by me and was for my information.

15

16

Q. The top of page 29, does that
include all that as well?

17

A. Yes.

18

19

20

21

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Q. So the only contribution, when
Phyllis Trayner said that she assisted you in the
preparation of the final nursing notes at the
preliminary hearing, the only information she gave
that you did not already know was the fact that she
fed the baby at 0230 hours and the baby took it well.

23

A. Right.

24

MR. PERCIVAL: Would this be a

25



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convenient time --

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THE COMMISSIONER: Yes, we will

4

take 20 minutes now.

5

---Short recess.

6

---Upon resuming.

7

THE COMMISSIONER: Yes, Mr. Percival.

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MR. PERCIVAL: Q. I would like,

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Miss Nelles, to deal with some of your evidence when

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Mr. Lamek questioned you about what you were

11

thinking with respect, and I think you used the

12

expression, and I am not sure whether you used it

13

at 8052 or whether he did, but talking in terms of

14

a cluster of deaths. Was that your words or his,

I can't remember?

15

A. I think I described it

16

initially that way.

17

Q. I believe when you were

18

questioned on it and I think Mr. Lamek was putting

19

it to you and sort of saying, have you any explana-

20

tion for the cluster of deaths and I think at 8062,

at the bottom at 17:

21

"Q. All right. Did you have or

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do you have any explanation for the

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fact that it seemed to be your patients

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who were dying?

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"A. I think that you have to look at the team and that the team was made up of Mrs. Trayner as team leader, myself, Sui Scott and Mrs. Christie who was an RNA and then Janet Brownless joined the team some time later.

Q. Yes.

A. And of those nurses if Phyllis was team leading then I was the most senior nurse on the team and that I would be assigned the patients that were probably the biggest worry, or certainly the children that were the illest.

Q. All right. It would follow from that I take it that if any child were in danger of dying it would likely be a child who had been assigned to your care?

A. Yes.

Q. And that's what you're suggesting?

A. Yes."

A. Right.

Q. Do I take it from that



1
2 response that your explanation as to why so many
3 babies were dying under your care was that you were
4 given the sickest babies and they were more likely
5 to die for that reason than other babies on the ward?

6 A. They were the sickest on the
7 floor, yes.

8 Q. But surely that does not answer
9 the question, does it, that as we look through the
10 series of 36 baby deaths why so many of these babies,
11 a lot of them under your care, died on the night
12 shift as opposed to the day shift, does it?

13 A. No.

14 Q. Then, that doesn't also answer
15 the question, why so many of those babies with which
16 we are concerned died when the Trayner team was on
17 duty?

18 A. Right.

19 Q. Because as we found out if you
20 have a team the exposure of the baby in the course
21 of a week can be no more than 25 per cent so it is
22 a one out of four chance.

23 A. Yes.

24 Q. Do you agree with me that the
25 statistics just don't provide an explanation?

A. No, they don't.



1
2
3 Q. Being the sickest baby assigned
4 to you is not really an explanation, for all of
5 those reasons?

6 A. Perhaps.

7 Q. Now at 8331 I think you were
8 talking in terms, and I don't know, people have a
9 quaint turn of a phrase, the word linking came up
10 in the previous evidence, 8331, Volume 124,
11 Mr. Commissioner, - maybe I used the expression and
12 I apologize - the question on 8331:

13 "Q. Of the 15 deaths which
14 occurred on the ward with you there,
15 there was only one, Baby Thomas,
16 where you had no responsibility
17 direct or indirect for the child.
18 You were neither team leader nor
19 assigned to the care of that child.

20 Looking back over the sequence,
21 did it ever occur to you that so many
22 of the deaths for which you were
23 present were deaths which involved
24 you either directly as your patient
25 or indirectly as team leader?

A. I don't recall really linking
the deaths that way. As I explained



1
2 "to you before, being the most senior
3 person on the team, that when we had
4 sick children that in all likelihood
5 I would be the nurse assigned to that
6 child and I remember - as I say I
7 don't remember at the time of this
8 linking them together and I certainly
9 never made that observation before I
10 was confronted with this sort of thing.
11 Q. Having now had that coincidence
12 drawn to your attention, does any
13 explanation for it occur to you?
14 A. No."
15 Do I take it that that is your
16 position as of this moment in time - now?
17 A. Which, that I don't --
18 Q. You have no explanation even
19 now?
20 A. That is right.
21 Q. I will ask the question that
22 has not been asked. Has it ever occurred to you
23 even at this moment in time linking the coincidences,
24 that the conincidences were caused by some person
25 deliberating overdosing these babies with digoxin
even to the present day?



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A. I don't really understand your question.

4

5

6

Q. Well, we know and you know I gather that an awful lot of these babies may have died as a result of digoxin overdose.

7

A. May have, yes.

8

9

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Q. May have. And you are surely not suggesting that if they died of digoxin overdoses, some of which you were caring for, that all of that was a direct result of many, many drug errors.

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A. For a long time after my arrest my feeling was that there must be a terrible mistake and I went through every possibility that could possibly have taken place and went over them in my mind time and time again.

16

17

Q. By that you mean that you certainly felt you had never made a drug error so far as the babies that you cared for?

18

19

20

21

A. I knew I had not.

22

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Q. All right. I know that you said that earlier on on Monday. You are saying it now.

A. Right.

Q. Now, having been certain in your mind --



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2
3 MR. SOPINKA: My friend asked a
4 question and she was in the middle of her answer.
5 Why doesn't he let her finish instead of interrupting
6 her. Does he want the answer or doesn't he?

7 THE COMMISSIONER: You understand
8 the rules, Miss Nelles? You are always allowed to
9 answer and if you have a qualification and if you
10 had some on that last question - by the time we
11 get through all this you have forgotten what the
12 question was and you will have forgotten what further
13 explanation you had.

14 MR. PERCIVAL: I'm sorry,
15 Mr. Commissioner. My friend is correct.

16 THE WITNESS: I think you are asking
17 me to pinpoint one thing and I don't think in having
18 been confronted with this that I came up with one
19 answer. I went over lots of answers and lots of
20 possibilities and mistakes were one of those possi-
21 bilities just as not mistakes were a possibility.

22 MR. PERCIVAL: Q. Those are
23 possibilities. I suppose I would like to move you
24 further along as to probabilities. If this
25 Commission accepts credible evidence to the effect
that a number of these babies died as a result of
massive drug overdoses of digoxin and you said that



1
2 you were certainly in your mind responsible for
3 none of those --

4 A. Right.

5 Q. Do you really seriously
6 suggest that if the finding of the Commissioner
7 that it was as a result of an unfortunate terrible
8 lengthy and an unbelievable sequence of drug errors?
9 If we are talking 9, 10, 12 baby deaths caused by
10 digoxin overdose, do you think that that happened
11 on that ward, those many medical errors?

12 A. I don't feel that I am qualified
13 to answer these questions. It is not my decision.

14 MR. SOPINKA: I submit the witness
15 is right. I think that is a function of the
16 Commission. I don't think that the witness should
17 be asked for opinion based on all of the evidence -
18 what is your conclusion as to what happened. She
19 said that she searched for explanations and she has
20 not come to any and I submit it should be left
21 there.

22 THE COMMISSIONER: One of the
23 problems is that the question of accident or other-
24 wise is still open and I have to consider it. I
25 would think that the assistance of Miss Nelles would
be valuable but if she doesn't want to answer then



1
2 certainly I'm not going to require her to. If you
3 think she should not, I'm not going to require her
4 to.

5 MR. PERCIVAL: That is why I put it
6 to the question of drug errors. If you don't feel
7 that you wish to answer then we will go on to
8 another subject.

9 MR. SOPINKA: It is not that she
10 does not wish to answer, Mr. Commissioner.

11 THE COMMISSIONER: No, no.

12 MR. SOPINKA: It is that she does
13 not feel qualified, and I feel that that is a very
14 responsible attitude to take.

15 THE COMMISSIONER: No, no. If she
16 had a view then I say it would be of assistance.
17 If she has a view one way or the other it would be
18 of assistance and if she has not a view one way or
19 the other it is not going to be of much assistance
20 in any event and I am not going to require her to
21 answer the question.

22 MR. PERCIVAL: Q. Mr. Lamek in
23 asking you a series of questions asked you to
24 reflect back on the nine months as to whether there
25 was something unusual about any of those baby deaths
where intervention may have occurred, and that is



1
2 at 8333 and what was left unsaid, and perhaps I
3 will read it to you, Mr. Lamek said:

4 "Q. Recognizing the limitation
5 upon your qualifications as you very
6 properly pointed out to us in the
7 course of your evidence, Miss Nelles,
8 is it now your judgment that those
9 changes..." (in Baby Pacsai) "...were
10 sufficiently drastic to suggest the
11 possibility of some intervention in
12 that child's course?

13 A. That has entered my mind, yes."
14 That was in response to a question
15 by Mr. Lamek as to being the only event that you
16 could recall being unusual in the course of all
17 these baby deaths, in the course of nine months, as
18 I understood your response. Was that true?

19 A. That is right. This is in
20 retrospect.

21 Q. I understand. That is my
22 next question. When did it enter your mind for
23 the first time?

24 A. I think when I was writing the
25 notes I certainly realized --

Q. Which notes?



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A. When I was writing the notes on the 19th of March I certainly made reference to the fact that the baby had changed quite drastically.

Q. And perhaps you could point that out to us. Would you do that, please? That is Exhibit 393. First of all, the page?

A. Page 110.

Q. Yes.

A. About half way down the page.

Q. Yes.

A. I described that "at approximately 2:45 the emergency bell sounded and I went to participate in an arrest where I was occupied until approximately 3:30 when I returned to 431 and to Kevin. I sat down to feed him and this time found his behaviour to be quite different." Then I went on to describe that he was lethargic and totally disinterested in the bottle.

Q. When you were asked, and that is Mr. Lamek's words at page 8333 "intervention", what did you mean by that, or what did you interpret his word to mean is probably fairly put. What sort of intervention?

A. What I thought was that I had been away from that room for a period of an hour and



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2 because I was gone from that room for that length of
3 time I had absolutely no way of knowing what went
4 on in that room when I was not there, and an hour
5 is a long time. So anything could have happened
6 in that room that I would not be aware of.

7 Q. Would the intervention be
8 the administration of medication? Is that what you
9 mean?

10 A. That would be one of the
11 possibilities.

12 Q. What are the other possibilities?

13 A. Well, there could be nothing
14 or --

15 Q. What I'm getting at is what
16 would the type of intervention be that would occur
17 in the course of that one hour that would cause
18 the radical change in relation to that baby?

19 A. Some type of intervention in
20 terms of his condition - his own intervention -
21 the baby's own intervention.

22 Q. You mean some development?

23 A. Yes.

24 Q. That could be another possi-
25 bility.

A. Right.

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Q But the only possibility where
a third person would be involved would be some
administration of an unauthorized medication?

A That is one possibility.

Q Aside from those two, is there
any other possibility?

A As I said in response to Mr.
Lamek's question, that he asked me if I felt that
someone had intervened, or there had been intervention
with regards to that baby, and I said that was one of
the possibilities that had entered my mind, it was
not that intervention was the only possibility.

Q I understand that. But what I
am trying to do, and in fairness Mr. Lamek used the
word "intervention" and "that has entered my mind" and
it was left there. I would like you to end up
assisting me, what did you take Mr. Lamek's utilization
of the word "intervention" to mean?

A What I am trying to say to you
is that Mr. Lamek asked me a question and he said:
"Was there any ... ", I can't remember the exact
wording, perhaps you can read it.

Q Perhaps I will and it might be
of some assistance to you.

THE COMMISSIONER: The page number?



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MR. PERCIVAL: Page 8332.

Q. "Q. Let me ask you this by way of retrospective question. During the whole of the period from June 30, 1980 until March 22nd, 1981 did you see or hear or observe anything, any event, any circumstances, any pattern that was in any way suspicious or unusual or unexplained that may cast any light on the cause or causes of death of these children? Can you now recall anything which you now consider may have some bearing on the deaths of these children?"

And then both Mr. Sopinka said something and the Commissioner said something and then you said:

"THE WITNESS: I can't recall anything. I think the only thing that I have already said and that I have thought about a lot is the Pacsai death, and that there were very significant changes in that child from the period that I last saw him and the period after I returned from the arrest of Manojlovich.



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"Q. Recognizing the limitation upon your qualifications as you very properly pointed out to us in the course of your evidence, Miss Nelles, is it now your judgment that those changes were sufficiently drastic to suggest the possibility of some intervention in that child's course?

"A. That has entered my mind, yes." Now he used the word "intervention" and I just want to know what you took from that?

A. Right. He is saying that one of the possibilities was intervention; and I said that was one of the things that had entered my mind.

Q. All right. But intervention by a person doing something to that baby?

A. Yes.

Q. And what was the other possibility, that the baby's course changed on its own?

A. Right.

Q. Anything else?

A. That there was no explanation.

Q. Anything other than that?

A. No.

Q. Thank you. I want to deal with



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respect to the question of some collateral matters that perhaps may be of some assistance particularly involving intravenous. We know that when Baby Estrella died, she died on the evening of January the 10th, but that you had worked on the day shift up to 7 o'clock on January the 10th before going off?

A. Right.

Q. I think that - I don't know whether you were asked this, but did you remain in the Hospital after 7 o'clock that night, or did you leave the shift at 7?

A. I would have stayed until the end of report.

Q. Which is what time?

A. Somewhere probably around seven-thirty, quarter to eight.

Q. Do you have a specific recollection of staying to that time and then leaving the Hospital?

A. I don't have a specific recollection, no.

Q. Now, do you recall during that day shift, and I am well aware of the fact that you were not looking after Baby Estrella; do you have a recollection of the IV line going into Janice Estrella's head going interstitial on two occasions during your



H.5

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day shift, once at 1645 hours, and the other time at
1800 hours?

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A. I did not know that at the time,
no.

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Q. When did you first become aware
of that?

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A. When I read Mrs. Ganassin's notes.

9

10

Q. Was this after you were arrested?

11

A. Yes, it was.

12

13

Q. I want to deal with Baby Cook on
the night of his death. Do you recall the IV site,
or the IV line going interstitial on Baby Cook on the
night of his death?

14

15

A. I believe he had difficulty with
it at the arrest.

16

17

Q. Well, do you recall Dr. Costigan
having some discussion with you prior to that baby's
death, involving whether or not the IV had gone inter-
stitial?

18

19

A. I asked him if he thought that it
was interstitial and we tested it and he said, no, I
think it is all right.

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22

Q. I think there was some reference
to a puffiness around it, was that because it was puffy
around the IV site entering the baby?

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A. That's right.

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Q. That you thought it might have gone interstitial?

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A. That is one sign, yes.

6

Q. I mean, was that the reason that you asked him?

7

A. Yes.

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Q. From time to time in the course of those nine months, Miss Nelles, did you ever suggest, you yourself ever suggest to the resident doctors that an IV should be started on babies under your care?

13

A. I don't know what you mean?

14

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16

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Q. Well, I ask it again. From time to time during the course of those nine months, did you yourself ever suggest to the resident doctors that an IV should be commenced or started on babies under your care?

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A. I gave them information that may have led them to decide that an intravenous should be started, but I don't recall ever suggesting to them that an intravenous should be started.

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Q. Do I take it that as far as you went, you would give them information and if they decided that was their decision but you never



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suggested that they should commence an IV to a particular baby under your care?

A. As I say the only thing that may have been looked at that way is that I may have said that the baby is not feeding.

THE COMMISSIONER: I am sorry, the baby is what?

THE WITNESS: Is not feeding properly; is not taking PO feed; is not tolerating them, and maybe we need to start an IV on this child.

MR. PERCIVAL: Q. Do you recall having said that on a number of occasions during the course of those nine months?

A. Not a number, no.

Q. How many times?

A. I don't know, not very often.

Q. You were aware I gather, and I want to deal with constant nursing care now. You, during the course of these nine months, from time to time were asked to perform constant nursing care with various babies?

A. Yes.

Q. And were you aware of the rules of the Hospital with respect to constant nursing care, what you were supposed to do and what you were not



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supposed to do. Can you outline to the Commissioner what your understanding was of the rules involving constant nursing care and the obligation and duties of a nurse charged with that obligation?

A. When a child is assigned to constant nursing care, it is ordered by the physician, and it means that one nurse will be specifically assigned to one child and that she will look after completely that child and no one else, and that when she - that she should have that child under constant observation, and if she goes on a break or whatever that she is to be relieved when she goes..

Q. And be relieved by a nurse, at least on the night shift?

A. Pardon?

Q. And relieved by a registered nurse at least on the night shift?

A. That is not completely my understanding, and I felt that a constant care child at times could be relieved by an R.N.A.

Q. Did the technique of leaving the medical chart out at the nursing station change if you were in fact charged with the obligation of giving constant nursing care to a baby? In other words, did the chart come in there with you by the baby's side?



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A. Not necessarily.

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Q. Did that make any change?

4

A. No.

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Q. So that the only thing that would

6

be by a baby under constant nursing care would be the rough sheet, to use your expression, as well as

7

perhaps a flow sheet for vital signs?

8

A. Right.

9

Q. Anything else by the baby's bed?

10

A. I think that I have to clarify

11

that on occasion as the nurse looking after a child

12

with constant care you may request that the chart

13

be brought in so you can read various aspects, but I

14

don't think that it is protocol or a regular procedure that the chart is kept at the bedside, no.

15

Q. During the course of the nine

16

months in question when you were charged with the

17

obligation of providing constant nursing care, did

18

you ever in looking after any of the babies at The

19

Hospital for Sick Children put on the monitor beside

20

the baby and then leave the room and remain at the

21

nursing station and monitor the baby's progress from that location?

22

A. No, I did not.

23

Q. Would you regard that, or did you

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H.10

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regard that at that time as being completely improper?

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A. I would not do it myself, no.

4

Q. No, did you regard it as being

5

improper?

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A. I don't think that was in the

7

rules, No.

8

Q. In other words you were not

9

supposed to do it?

A. That is my understanding, yes.

10

Q. There is evidence in this

11

Commission from Sui Scott at Volume 118, at page 6866,

12

that during the course of the night that Baby Estrella

13

died that Phyllis Trayner in relieving Sui Scott did

14

that very thing that I have talked about; in other

15

words they left Baby Estrella who was supposed to be

16

on constant nursing care, put on the monitor and

17

both nurses then remained at the nursing station,

were you aware of that?

18

A. I heard about that, yes.

19

Q. When did you hear about that?

20

A. When it came forth.

21

Q. I am talking about, did you hear

about it back in January of 1981?

22

A. No, I did not.

23

Q. And do I take it that the first

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time you heard about it was in these Commission
hearings?

3

4

A. I believe it was at the
preliminary hearing that I heard about that.

5

6

Q. You also knew from another
witness, Nurse Parcels' evidence, that that was done
by others than Sui Scott and Phyllis Trayner, did you
not; that is at Volume 20, page 32 of the preliminary,
Mr. Commissioner.

7

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9

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A. The preliminary, yes.

11

Q. Do you remember that?

12

A. Yes.

13

Q. Were you aware of that occurring
in the nine-month period? In other words, whether you
didn't do that, were you aware of it occurring?

14

15

A. Yes, I was.

16

Q. And was it a frequent occurrence?

17

A. I would not say frequent, no.

18

Q. Did it ever occur when you were
team leader?

19

20

A. I don't recall that I had anyone
that was assigned to constant care when I was team
leader.

21

22

Q. Well, when it occurred, was there
any discussion about it amongst the nurses, including
yourself?

23

24

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H.12

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A. I don't recall that there was, no.

3

Q. Do I take it then from what you

4

say that it was recognized that it occurred during the

5

nine-month period but nobody paid very much attention

6

to it?

7

A. I think it was probably, as I

8

say, a judgment thing, in that some people viewed it

9

as wrong but perhaps they kept it to themselves.

10

Q. Well you viewed it as wrong and

you kept it to yourself?

11

A. Yes.

12

Q. And you saw no one else view it

13

and do anything else about it the same as you did?

14

A. I don't recall, no.

15

Q. Did that involve, you say other

16

people looking at it, what about head nurses and the

17

nursing supervisors, were they aware that was going

on in the course of those nine months?

18

A. I do not know.

19

Q. Well, when you saw it occur

20

were nursing supervisors there or head nurses there?

21

A. I don't know.

22

Q. Let me turn to the next subject

23

involving the cardiac arrest. Do I take it that what

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you say, and you said something this morning that I

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H.13

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want to be fair to you. Do I take it that out in Vancouver there were deaths occurring when you were on the ward?

A. I only recall one or two.

Q. And were these babies?

A. One was a young child that I specifically remember, I don't remember the others.

Q. The two that you specifically recall, or any of the ones that you have any recollection of, were you looking after the babies at the time they died?

A. No, I was not.

Q. Then I take it that when you got on to your work at The Hospital for Sick Children and the first baby death with which you were personally involved was Baby Bilodeau; the first baby that you ever looked after that died on the shift that you were looking after, is that right?

A. Right.

Q. That was on July 22nd?

A. That's right.

Q. And prior to that baby dying, Miss Nelles, had you ever had any experience, personal experience, nursing experience, with respect to arrests occurring in your presence of babies and the



H.14

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2

resuscitation attempts being commenced?

3

A. No, I had not.

4

Q. So Bilodeau was the first one?

5

A. As I explained to Mr. Lamek, I believe there was one on the 5th floor when I worked there.

7

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Q. All right. It has been said by other witnesses that at some point in time in the course of these nine months, that during resuscitation you were inevitably doing the pulmonary pressuring because of the fact that you had smaller hands than the other nurses; do you recall that evidence being given?

14

15

16

A. My function at the cardiac arrests was quite often to do the cardiac compressions, I don't recall hearing that it was because my hands were smaller.

17

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Q. In any event, did you feel by the end of the nine-month period, how many arrests had you participated in and resuscitations?

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A. I don't know how many there were.

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Q. Well, had you participated in all 17 that are listed on Exhibit 383?

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A. All the 17 that I was on the floor?



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Q. Yes.

A. Yes.

Q. All right. Those were resuscitations that failed because the babies died.

A. Right.

Q. Do you recall any successful resuscitation with which you were involved during that nine month period; in other words, where the baby had an arrest, you went into resuscitation and the baby was saved.

A. No.

Q. I want to deal with - I guess that from time to time when you were working on 4A/4B that you got to know the other teams.

A. Yes, I did.

Q. All right. And the teams remained fairly static aside from some alternating, or not alternating, but some additions and some deletions during the course of those nine months.

A. There were some changes, yes.

Q. All right. And did the teams, you have talked about being reasonably close with Bertha Bell, did the teams have their Christmas parties together, for instance, when they could, 4A/4B?

A. Yes, they did.



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Q. All right. Had you heard during the course of those nine months rather derogatory comments made by other employees of the hospital about Ward 4A for arrests, Ward 4B for bad luck. Did you know that was being said during the course of those nine months?

A. I am sorry, did I hear that they were...?

Q. Making those comments.

A. Other floors?

Q. Yes.

A. Well, they certainly were hearing the arrest calls, yes.

Q. Well, I know that. But have you ever heard that before I have mentioned it to you, 4A for arrests, 4B for bad luck?

A. I have never heard that.

Q. You haven't heard that up to this moment in time?

A. Not that phrasing.

Q. Well, what was the phrasing you heard?

A. I certainly didn't hear that 4A stood for arrests and 4B for bad luck, no.

Q. Well, you said you hadn't heard



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that phrasing, have you heard any phrasing similar to that?

A. I knew that from the supervisors the other floors often heard the arrest calls at night.

Q. Well, in fact, I think during the course of, at least whether it was Miller or Cook, you made a comment to the supervisor 'What floor were you on tonight'.

A. Right.

Q. Do you remember saying that?

A. Yes.

Q. All right. Now, Mr. Hunt put it to you yesterday that some nurses during the course of - nursing supervisors said that they would wait for the 3:00 to 5:00 time in the long night shift to be over with and breathe a sigh of relief. You said you never heard that being expressed by other people.

A. I did not say that, I said that I heard other people say that, gee, it's 5:00 and we've passed that time.

Q. All right. We have heard evidence from many different nursing sources in this commission that some of them hated to come into work, they dreaded to come in and work on 4A/4B. At any time up until March 22nd, 1980 did you ever dread or hate to come into



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work because you feared another baby death?

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A. I wouldn't put it that way. I don't think anyone enjoyed the stress and the upset that you felt when you lost a child and we had to experience that a lot.

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Q. All right.

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A. No, I didn't look forward to having to face that again.

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Q. Well, do I take it when you started getting death after death after death in the month of March you would rather be anywhere else other than 4A or 4B; nursing somewhere else where there is not going to be another baby death?

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A. I hoped that there would not be another death, but I did not hate to work.

16

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Q. I don't mean it that way, and you will forgive me, I did not want you to assume I meant you were hating to work.

18

19

A. Yes.

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Q. I know, you like your work, don't you?

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A. Yes, I do.

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Q. But I am saying hate to work on that ward under those conditions where you might be faced realistically by reason of statistics with another



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5 baby death.

A. But I didn't look at it that way.

Q. All right.

A. I hoped that there would not be another death.

Q. I understand. I want to deal with the situation that I think that Mr. Hunt put to you, and I want to talk in terms of going back to the death of Allana Miller and the evidence that Bertha Bell has given in these proceedings about a 3 cc. syringe being utilized by Phyllis Trayner and administering something into the buretrol of Allana Miller at or about mid-night on the night she died.

A. Right.

Q. Do you remember saying yesterday at 8535 to Mr. Hunt that at some point in time you were shocked to learn about that evidence. I had better put it to you fairly.

A. That was his wording, I answered "Yes".

Q. I'm sorry. Well, then, were you shocked, whether it is his wording or yours and was that your view of that evidence?

A. I was surprised to hear about it, yes.



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Q. Well, does it then retreat from --
then you don't agree with the word "shocked",
it is just a question you were surprised?

A. I agreed with what he said to
me, yes.

Q. Well, no, he used the word
"shocked", you agreed?

A. Right.

Q. Do you still say you were shocked
when you learned of that information or is it now you
were surprised?

A. Those were the words that he
chose, that would not necessarily be the wording I
would choose.

Q. Well, tell me your choice of
wording?

A. I was surprised when I heard that
evidence, yes.

Q. Did it go beyond surprise?

A. No, it did not.

Q. Well, would that represent another
significant act or occurrence in the nine month period
that would give you some measure of concern with respect
to these baby deaths other than what you have told us
about Pacsai?



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A. I did not view that incident myself, I did not see it take place and I myself do not have an explanation for why it occurred but we have not heard from the person who did it.

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Q. Well then, Miss Nelles, you know Bertha Bell?

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A. Yes, I do.

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Q. All right. Would you think that she is the type of person to come in and swear under oath of having said something and observed something when it did not in fact occur?

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MR. STRATHY: I think, Mr. Commissioner, we've passed the day when one witness was called to come in to comment on the credibility of another witness. We have heard what Bertha Bell has to say, I don't think it assists us to know what Miss Nelles has to say about Bertha Bell's powers of observation or veracity or otherwise.

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THE COMMISSIONER: Yes, I am concerned about that. Do you have anything you want to say on that question?

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MR. PERCIVAL: Well, I will go at it another way then, Mr. Commissioner.

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Q. Prior to the time of Bertha Bell giving that evidence to this commission, about four



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2 weeks ago, and giving that evidence that was viewed
3 by some people, quite apart from the media, as being
4 surprising evidence, had you ever heard that from
5 Bertha Bell before?

6 A. No, I had not.

7 Q. And after she gave that evidence
8 you said you were surprised about it?

9 A. Yes.

10 Q. Did you ever speak to her about
11 it after she gave that evidence and up until the
12 present time?

13 A. No, I have not.

14 Q. Can you suggest anything, if
15 Bertha Bell is accurate, about what she observed at
16 that time with the three cc. syringe? Can you think
17 of anything that Phyllis Trayner could be putting in
18 the buretrol at that time that was authorized by any
19 physician based upon your personal knowledge of the
20 chart of Allana Miller?

21 A. As I say, I have no explanation
22 for it myself.

23 Q. All right. Well, whether you have
24 any explanation, can you think of any medication that
25 was authorized to be given at that time and put into
the buretrol of that I.V. line leading into the body



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of Allana Miller?

A. If the times are correct, no,
I cannot.

Q. Let me turn to the night that
Justin Cook died. We are moving to another night
towards the end of the series. As I understand your
evidence, and I want to deal with the question of the
digoxin lockup.

A. Right.

Q. All right. At that moment in
time you had about nine baby deaths in 16 days on that
ward. You were aware when you came on that shift that
you were going to be likely participating in an
inquest into the death of Baby Pacsai.

A. Right.

Q. You knew that there was at least
a 25 or a very high digoxin level involving Baby
Pacsai and that's what you knew I guess when you
started the shift at 7:00 on March 21st so far as the
events, any unusual events that were occurring on your
ward.

A. Right.

Q. All right. And at some point in
time and before the 9:00 feeding was to be given, you
took report at about 7, 7:30.



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A. Right.

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Q. And you were assigned to one

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baby and one baby only and that was Justin Cook?

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A. Right.

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Q. And you took the report and is it

7

your recollection that you then went to the room that
Baby Cook was in, 418.

8

A. Right.

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Q. And commenced to give him constant

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nursing care?

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A. No, I did not.

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Q. What did you do?

13

A. I asked Sui Scott if she had

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done the narcotic count in the morning and she said,
yes, and I said, well, let's go and do it now.

15

Q. And that narcotic cupboard count

16

did not involve counting digoxin?

17

A. That's right.

18

Q. So, you had the keys to the

19

narcotic cupboard?

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A. Right.

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Q. You did that and then at some

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point in time you went with the keys to 418 and
commenced to give care to Justin Cook?

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A. Right.

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Q. And having obtained accurate information from the report, you knew full well that whatever medication had to be given to Justin Cook it certainly wasn't digoxin.

A. Right.

Q. Now, when did you become aware for the first time of something occurring within the hospital involving the lockup of digoxin? What time did that occur and by what means?

A. I don't remember exactly what time it was. It was some time I would say after 9:00, perhaps 9:15, 9:30, and Phyllis Trayner came into the room and told me that Dr. Costigan had asked her not to give out her digoxin, her 9:00 digoxins to her patients and that he had taken the bottle from the floor and she told me that she was a bit concerned because the parents were asking questions.

Q. All right. Having learned that information and you were still in 418 did you say to Phyllis, boy, something big is going on?

A. No, I did not.

Q. You don't ever recall using that expression?

A. No, I don't.

Q. Is it an expression that you have



12 1
2 used before?

3 A. No, it is not.

4 Q. Were you aware then, if you
5 didn't use that expression, which is attributed to
6 you, in fairness, by Phyllis Trayner --

7 MR. SOPINKA: Where?

8 MR. PERCIVAL: In a statement which you
9 have, Mr. Sopinka.

10 THE COMMISSIONER: Excuse me, where?

11 MR. PERCIVAL: It is in a statement.
12 It is not in the preliminary and in fairness Mr. Sopinka
13 has it. But you say you didn't say it in any event?

14 A. No, I did not.

15 Q. All right. What was your reaction,
16 what did you think was going on then?

17 A. I thought that they were checking
18 the concentration of the digoxin.

19 Q. Do I take it that you then thought
20 there was an investigation going on?

21 A. I thought that Dr. Costigan was
22 checking the concentration so that what was on the
23 label of the bottle corresponded to what the actual
24 concentration in the bottle was.

25 Q. Well, did you think that that
was an investigation going on?



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MR. SOPINKA: An investigation by whom,
by the police or by the hospital?

MR. PERCIVAL: Well, I will use Mr.
Cooper's own writing because at 394 they talk about
an investigation going on. I don't care, it doesn't
matter to me, Mr. Sopinka.

MR. SOPINKA: Well, I don't know what
Mr. Cooper meant but does my friend have any objec-
tion to defining what he means? Obviously somebody was
looking at something, that may be an investigation.

MR. PERCIVAL: Page 394 - Exhibit 394,
page 215.

THE COMMISSIONER: I'm sorry, Exhibit...?

MR. PERCIVAL: 394, page 215, Mr.
Commissioner.

THE COMMISSIONER: Oh, I see, yes, it
was the page.

MR. PERCIVAL: Q. Talking about Baby
Cook:

" - child died around 4:45 a.m.

- no decision re. digoxin (he wasn't
on digoxin)

- they took the digoxin off the floor
that night - the investigation was on."

A. And that's Mr. Cooper's wording.



Nelles
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Q. I understand that. But did he not get that information from you?

A. As I said, my feeling was that Dr. Jedeikin had taken the bottle down to the lab and that he was conferring with pharmacy to check the concentration of the digoxin in the bottle.

Q. So, do I take it that as far as you were concerned it was just a question of checking the concentration of digoxin and no big deal?

A. I thought that they were checking the concentration.

Q. All right.

A. That's what I thought.

Q. And you didn't start thinking or didn't have any attribution in your own mind, I wonder if that has something to do with Baby Pacsai, the forthcoming inquest, the digoxin overdose. You never thought about that at that point?

A. I thought that by checking the concentration of digoxin in the bottle that that was one of the possibilities with regards to Pacsai, that maybe that's why he had such a high level, was because the concentration in the bottle was not correct.



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Q. All right. So do I take it then
that you did connect the two?

A. Yes, I did.

Q. And at page 7959 the first day
you gave evidence you talked in terms about the
fact that you were glad on Monday, March 23 that there
was going to be an investigation into a large number
of the deaths. I want to start with that premise
which is your evidence under oath. I want to know
when you felt, the moment of time for the first time
that there was an investigation into a large number of
deaths before Monday, March 23 at Liz Radojewski's
house after 7:00.

I want you to go back from there. Do
you understand what I am asking you?

A. Okay. First of all, I later
learned that Dr. Jedeikin gave the go ahead to go ahead
and give the digoxin, it is fine. In other words, the
concentration in the bottle is fine. So I thought,
fine --

THE COMMISSIONER: When you say later,
would this be --

THE WITNESS: That same night.

THE COMMISSIONER: The night of the 22nd.

THE WITNESS: Yes.



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2 Q. Miss Nelles, what I am asking
3 you though if you can assist me, I don't know if you
4 can, do you have to go at it that way, is that what
5 you are saying to me? Do you want to relate - are
6 you able to say a point in time is what I am getting
7 at when you felt the investigation was not just
8 Pacsai but was a whole series of deaths as you
9 indicated you felt on Monday night at Liz Radojewski's
10 house? All I want to know is when in point of time,
11 and then we will analyze it, at that point what was it
12 that made you know that there was an investigation
13 into a large number of deaths? That is all.

13 A. I don't know whether a large
14 number of deaths was a point. What I did know was -
15 and when I referred to an investigation, what I knew was
16 going on was first of all that they were checking the
17 intravenouses of Justin Cook, that there were supervisors
18 on the floor watching the administration of drugs,
19 that they were not admitting any more children to the
20 floor. That is what I meant in terms of investigation.
21 That is my understanding.

22 Q. Let us go back, and I want to
23 be fair, 7959, Mr. Sopinka was questioning you about
24 some aspect that you were pleased there was now some-
25 thing being done. At the bottom of page 7958:



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"Q. And were you pleased that the matter was being investigated?

A. Yes, I was.

Q. Why?

A. Because we had had a large number of deaths and they all seemed to come on our team, and I felt that the nursing care that those children had received was up to scratch, that we had done what we were supposed to do, and that if an investigation was to take place then that was necessary and perhaps you would finally come up with some answers as to what was going on on the floor."

A. Yes.

Q. I perceive from that, maybe you did not mean it, but I perceive from that that on the night of March 23rd you felt - and you were pleased an investigation was going on into a large number of the baby deaths.

What I am getting at is if you felt it at 7:00 or 9:00 on Monday, March 23rd, when was it earlier that you knew at least in your own mind or felt in your own mind that there was an investigation not just into Baby Pacsai's death but into a whole



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lot of events that had occurred over the nine months' time?

MR. SOPINKA: I don't think that evidence indicated that she thought there was an investigation over a large number of deaths. What she said was that there were a large number of deaths and she was relieved that there was an investigation. It may have been an investigation into one death or more deaths. There is nothing in there that supports my friend's contention.

MR. PERCIVAL: With respect, Mr. Commissioner, I don't interpret it the same way.

THE COMMISSIONER: No, but I think it could be both the way you interpret it and the way Mr. Sopinka does, and we could find out from the witness --

MR. PERCIVAL: Please.

THE COMMISSIONER: Did you think on the 23rd of March that they were investigating more deaths than Pacsai or they were just investigating Pacsai?

THE WITNESS: I think what you have to understand is that I did not link them together. I think I have explained this before. I knew that there was an investigation - there was going to be,



Nelles
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2 I am sorry, a coroner's inquest into the death of
3 Pacsai. Second, I knew that they had taken the
4 digoxin off the floor for a time to check that
5 concentration of digoxin but they had brought it back
6 and said it was fine and, third, by the time that
7 Monday night came around I knew that they had actually
8 taken some solutions and were looking at it and it
9 was my feeling that they were checking to see if in
10 fact what the nursing team said they had done they
11 had in fact done. That is why I said that we had done
12 nothing wrong and let them go ahead and check these
13 things out and let them see that in fact we did not do
14 anything wrong.

15 Q. Let us take you through then the
16 events involving the death of Justin Cook. You told
17 us about what happened with respect to the digoxin,
18 the interchange of the keys, the locking up of the
19 keys.

20 A. Right.

21 Q. Justin Cook then died at 4:56,
22 close to 5:00 in the morning of March 22 and then
23 whether or not you regarded the investigation or the
24 holding of digoxin, being a controlled drug, as being
25 unusual another event occurred which was unusual, at
least so far as you were concerned, when Dr. Jedeikin



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took his post mortem blood sample and asked you to help him start snipping the I.V. lines for sampling.

A. Taking samples from them.

Q. Yes. You had never done that before?

A. No, I had not.

Q. Did you regard that as an investigation going on?

A. But you are linking them, and I did not link them.

Q. Was it some type of investigation? I am not linking it. I am asking you did you think that was unusual and that somebody was trying to find out what happened?

A. But you are presenting me with all three of them and I did not put those three together. I looked at each of them separately and never put them together.

Q. Let us look at Dr. Jedeikin's activities separately.

A. Okay.

Q. Did you think the snipping of the I.V. line, the retention of the I.V. equipment, the taking of the post mortem blood sample on Justin Cook, who should never have gotten digoxin, did you



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think that was part of an investigation - a separate investigation?

A. But you just added about Justin Cook getting digoxin. I certainly did not know that.

Q. He was not supposed to get digoxin.

A. No, he was not.

Q. Assume you knew that. You said you did not know it. But I am talking about the events after death.

A. Right.

Q. That had never occurred to you before where they had taken samples after the death of a child?

A. No.

Q. It had never occurred to you before where a doctor and later chief of staff, medical staff, Dr. Fowler, had never come on to the ward at 4 or 5 or 6 in the morning before?

A. No, but I explained to you what my feeling was behind that. That they were checking in fact to see that the concentrations in the bottle and in the I.V. solutions were what they said they were and the concentrations in the infant were what they were said to be.

Q. You say checking. That was an



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2 investigation. It might have been quite separate
3 and apart but it was an investigation, surely.

4 A. Dr. Jedeikin was taking samples
5 from the baby and from the intravenous solution.

6 Q. This is after Cook's death, so
7 we are talking about that, and still you made no
8 connection up to that point.

9 A. Connection with what?

10 Q. Connection with Pacsai, digoxin
11 overdose, no connection made?

12 A. No, I did not.

13 Q. Now, you went off shift at that
14 point and you went, and I think you have already told
15 Mr. Sopinka and then Mr. Hunt about the discussion
16 in the dirty linen room or laundry room at 7:00
17 in the morning. You were upset at that point, were
18 you?

19 A. Yes, I was.

20 Q. Was Phyllis Trayner upset at that
21 point?

22 A. Yes, she was.

23 Q. Was Liz Radojewski upset?

24 A. Yes, she was.

25 Q. Because it was another baby death?

A. Yes, it was.



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Q. That was unexpected?

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A. I would not say that, no.

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Q. You expected it then?

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A. I don't expect any baby to die.

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There are children who have a higher probability of dying and they present certain characteristics that do not lead me to believe that they could not die.

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Q. And at that moment in time do I take it that your discussion with Phyllis Trayner about the unusual event of Dr. Jedeikin taking a post-mortem blood sample, that discussion had taken place between 5:00 and 7:00 when you were off shift, had it?

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A. Her telling me?

15

Q. Yes. Why did he do that -

16

A. She said that.

17

Q. That is what I mean. That took place before you went off shift.

18

A. Yes, it did.

19

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Q. Was that again discussed in the dirty linen room when Liz Radojewski was coming on shift?

21

A. I don't remember.

22

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Q. Was the taking of the sample of the I.V. line discussed with Liz Radojewski?

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A. I do not know. I am sure that Phyllis as team leader would have reported that to Mrs. Radojewski, yes.

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Q. You did not go immediately home after that meeting. You went and had coffee with Liz and Phyllis in the coffee shop, did you not?

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A. I was late going to meet them, yes.

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Q. But in any event even after that change of shift you went off shift but you did not leave the hospital, you went to the coffee shop - to have coffee, I presume.

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A. Yes.

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Q. Was it for any other purpose save and except to sort of talk to Phyllis and Liz about what had happened about Justin Cook - any other purpose for that meeting?

A. I was very upset.

Q. Were you the one that asked for the meeting or did somebody else ask for it or how did it come about?

A. I don't remember. Mr. Cook came back to the floor that night and asked me to show him his son so I had to return to the morgue again.

Q. I am sorry, this was after you



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were off shift?

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A. Just at the end of my shift.

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Q. That made you more upset?

5

A. Yes, it did.

6

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Q. I want to take you - why was it then that a subsequent meeting took place in the coffee shop and at whose suggestion or whose request?

8

A. I think Liz's.

9

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Q. You attended there and you say you were late but were Phyllis and Liz already talking in the coffee shop?

11

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A. Yes, they were.

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14

Q. Did Phyllis Trayner again bring up her concern - her questioning about why did Dr. Jedeikin take a post mortem blood sample. Was that brought up again?

15

16

A. I don't remember.

17

Q. What was discussed?

18

19

A. I think just how tired and frustrated we were.

20

21

Q. Do I take it from that that although you have only used it once, and I compliment you, you were under an awful lot of stress at that point?

22

A. Yes, I was.

23

MR. PERCIVAL: Would you like a moment?

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THE COMMISSIONER: What are your
thoughts, Mr. Percival, at this moment?

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MR. PERCIVAL: I feel like I have gone
back on my word to my friend here. I thought I would
be finished by a quarter to one. I don't think I can.
I don't think I can finish by one, that is my problem.
I have at least another half hour.

10

11

THE COMMISSIONER: What is your position,
Mr. Sopinka? You have to be away.

12

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MR. SOPINKA: Could my friend finish
in a half an hour?

14

15

MR. PERCIVAL: I don't want to rush.
I have a considerable obligation to my clients.

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THE COMMISSIONER: Of course, of course.

MR. PERCIVAL: If the witness wants to
continue, I will continue.

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THE COMMISSIONER: We will take five
minutes now and come back and see what the position is
and I think perhaps you could discuss whether we can
complete your examination before lunch or whether
we cannot. We will take five minutes.
---Short recess.



DM.jc
K.1

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THE COMMISSIONER: We are going to take our break now, the usual time until 2:15, but I think I have a couple of other things that I want to say on scheduling just so that everybody can understand what is happening.

We are not going to start until eleven, I haven't said this to Mr. Sopinka yet, but I think we will make it 11:15 on Monday so we can go through without a break and that will probably save us time. We hope we will be finished the examination of Miss Nelles on Monday, and if not, of course we will have to continue until Tuesday, but in any event we will not start examination of Mrs. Trayner until Wednesday. I still hope - that is not the right way of putting it, I still fear that we may be sitting on Friday of next week and that is something too, but those who want to schedule --

MR. PERCIVAL: I thought you were going to be down at Thompson Hall?

THE COMMISSIONER: Are you going to be there?

MR. PERCIVAL: Oh yes, so is Mr. Lamek.

MR. LAMEK: Not until the evening.

THE COMMISSIONER: Not until Friday night, and I am not due until Saturday morning. Anyway



K.2

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we will see, that is only a threat hanging over your heads at the moment. But Tuesday is the day that we will not be sitting.

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MR. SOPINKA: With respect to next Friday, I would hope that no hard and fast rules are made until we have had a chance to discuss it.

7

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THE COMMISSIONER: Well, we will think about it, but would you worry about Friday.

9

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MR. SOPINKA: I think sometimes you like to make hard and fast rulings.

11

THE COMMISSIONER: Yes, that's right.

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MR. SOPINKA: But in this case I ask you to refrain.

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THE COMMISSIONER: All right. Well, it is a tentative 'maybe' ruling and we will see what happens. In any event Wednesday we will be starting with Mrs. Trayner, Tuesday we may or may not be sitting, and on Monday we will start at 11:15, and we will come back here today at 2:15.

19

--- Luncheon recess.

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DM/ak

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--- Upon resuming at 2:15 p.m.

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THE COMMISSIONER: Now, Mr. Percival, before you start, I don't know whether you are in trouble next Friday but it seems that Mr. Olah has scheduled me for something next Friday, unless you would like to carry on without me.

MR. OLAH: You are the one person we can't carry on without.

THE COMMISSIONER: I think you could very well.

MR. OLAH: You could read the transcript.

THE COMMISSIONER: All right, well then we will proceed.

MR. PERCIVAL: Q. Miss Nelles, when we left before lunch I think we were at a point to where I was trying to enquire from you the purpose of going to the coffee shop after the shift was over, after Justin Cook had died, and why the head nurse who was supposed to be on days would then leave the ward and go to the coffee shop and have a discussion with you and Phyllis Trayner. Now, are you able to assist us this afternoon as to what the purpose of the - what the purpose of that meeting was?

A. I don't think there was a



1
2 specific purpose. It was so that we could have a
3 cup of coffee after a long night.

4 Q. Well, that was the purpose
5 for you and Phyllis, but why would the head nurse
6 for days be there with you?

7 A. Because she is our head nurse
8 and she was concerned about us.

9 Q. So do I take it that at that
10 point you had a cup of coffee, but what did you talk
11 about?

12 A. I don't remember.

13 Q. Perhaps if I make some
14 suggestion; you said you don't think - you can't
15 remember whether you talked about whether Phyllis
16 Trayner was still concerned about Dr. Jedeikin
17 taking the large postmortem blood sample, you can't
18 remember that?

19 A. Right.

20 Q. Do you remember whether or not
21 the taking of the IV line and preserving it was
22 something that was discussed?

23 A. I don't remember that that
24 was our discussion. As I said the purpose of our
25 meeting was to sit down and relax after a long
night, it was not to discuss what had happened.



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Q. You surely would be talking about what happened in the long night?

A. I don't think we were.

MR. SOPINKA: Well really I think there is a limit to this. She says she doesn't remember. He has suggested certain other things were discussed and she says she doesn't remember that. How much farther can he go?

THE COMMISSIONER: Can't he probe it, can't he suggest?

MR. SOPINKA: There is a limit to probing, this is badgering, not probing.

MR. PERCIVAL: Oh, with respect --

THE COMMISSIONER: No, I think it is probing.

MR. PERCIVAL: Thank you.

THE COMMISSIONER: You carry on.

MR. PERCIVAL: Q. That particular coffee shop meeting, did you talk about the fact that Dr. Fowler had come on the ward?

A. No, we did not, in my recollection.

Q. Had that ever occurred before in nine months, coming in at 5:00 or 6:00 in the morning?



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A. He is always called when a
child - the physician responsible is always called.

4

5

Q. Had he ever come on to the
ward?

6

A. I don't remember.

7

8

Q. What time did you - so aside
from having a cup of coffee, you cannot assist the
Commission as to what was discussed then?

9

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A. As I say it was a period of
time when we were tired; we were emotionally drained,
and I think we expressed the great deal of stress
that we were under and I think that was the topic
of discussion at that coffee break.

14

15

Q. What time did you leave the
Hospital, Miss Nelles?

16

17

A. Some time around 9 o'clock,
I believe.

18

19

20

Q. And when you left the Hospital
I gather you knew, and Phyllis Trayner knew, that
both of you were supposed to come back on shift at
7 o'clock that night?

21

A. Right.

22

23

24

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Q. Did you know before you left
the Hospital that nursing supervisors were on Wards
4A and B on a full time basis?



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A. No.

3

Q. The day shift?

4

A. No, I did not know.

5

Q. Did you know before you left

6

the Hospital that the narcotics keys had been taken

7

from the team leader and the head nurse, and were

8

being carried by the supervisor?

9

A. No, I did not.

10

Q. Did you know before you left

11

the Hospital that the medications being administered

12

to each and every child on 4A/4B was being personally
monitored by the supervisor?

13

A. No, I did not.

14

Q. Did you know before you left

15

the Hospital that an order had gone out that digoxin

16

levels would be taken on every baby left on those
wards?

17

A. No, I did not.

18

Q. When did you first learn of

19

these events that I have just described that were

20

occurring on 4A/4B after you left the Hospital at

21

about 9 o'clock on Sunday, March 22nd?

22

A. I believe I was told about

23

them on Monday afternoon.

24

Q. Do I take it that at some

25



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point in time that you were called not to come into
work that evening?

4

A. Yes, I was.

5

6

Q. And do you remember yourself
when you were called?

7

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A. Again it was some time Sunday
afternoon.

9

10

Q. And do you remember when
precisely on Sunday afternoon, was it close to when
you would be leaving your home and going to work?

11

12

13

A. No. It is my recollection
that I had to be awakened, so I believe it was in
the middle of the afternoon.

14

15

Q. Who was that telephone call
from?

16

A. Liz Radojewski.

17

Q. And what did she tell you?

18

19

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A. She told me that the Hospital
felt that our team had been under a great deal of
stress and for that reason they requested that we
not come to work, that they were giving our team the
night off with pay.

22

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Q. And aside from telling you
that you had the day off, did she tell you anything
else about what was occurring on Wards 4A/4B that day



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shift?

3

A. I do not think it was Liz

4

that told me, no.

5

Q. Did she tell you anything more

6

than what you have told me, that Sunday afternoon in
that telephone call?

7

A. I don't believe so, no.

8

Q. What was your reaction to

9

being told that?

10

A. It upset me, I was concerned.

11

Q. Being upset and concerned,

12

what was the reason for the upset, what was the
reason for the concern?

13

A. Because we had been, as a

14

team, under a great deal of stress on many other
occasions and we had not on those occasions been
requested not to come to work.

15

16

17

Q. So this was something new and

18

something that gave you a moment to pause and wonder
why it was?

19

A. That's right.

20

Q. Did you believe Mrs. Radojewski,

21

that it was a good idea that you take the night off
because of the stress?

22

23

A. I felt relieved that I didn't

24

25



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have to go to work, yes.

3

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Q. Because of the events of the
night before?

5

A. That's correct.

6

7

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Q. Mrs. Radojewski said your
reaction to the telephone call was that you seemed
to be resigned to it. Do you feel that you expressed
to Mrs. Radojewski such resignation?

10

11

A. I don't recall, I listened to
what she said and I accepted it for what she told
me.

12

13

Q. Do I take it - did you go
back to sleep?

14

A. I don't think so, no.

15

16

Q. Did you have any communication
with anyone else involving 4A and 4B the rest of
that afternoon and evening?

17

18

A. I do not believe I had any
communication that Sunday night, no.

19

20

21

Q. That Sunday night then you knew
that you had Monday and Tuesday off, because
those were your regular days off in any event?

22

A. That's right.

23

24

25

Q. And therefore having been given
the night off, your contemplation was you would go



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in and work long days on Wednesday morning, March
25th?

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A. That's right.

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Q. Did you receive a phone call
from anyone that evening? Did you receive a phone
call from Phyllis Trayner asking you whether you had
also been told not to come in that night?

A. On the Sunday night?

Q. Yes.

A. I don't believe so, no.

Q. Were you made aware in the
telephone conversation with Liz Radojewski that
there was to be a meeting at her home the following
Monday?

A. No, I was not.

Q. Did anything else occur then
on Sunday that you can recall that involved 4A and
4B and these baby deaths?

A. On the Sunday?

Q. Yes.

A. No.

Q. The Monday morning at some
point in time you became aware of the events that
had transpired on the ward on the Sunday?

A. I don't know whether it was



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Monday morning, or Monday afternoon.

3

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Q. And how was that made known
to you?

5

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A. I believe it was Mrs. Bell
that called me and told me that there was going to
be a meeting that evening and could she have a ride
to the meeting.

9

10

Q. And did Mrs. Bell - this is
Bertha Bell?

11

A. Yes.

12

Q. Did she tell you what the
meeting was for?

13

A. I believe she did, yes.

14

15

16

Q. And did she tell you of all
the things that I have just related that you didn't
know had occurred on the Sunday?

17

A. Yes, she did.

18

19

Q. The fact that there were
supervisors on; that medication was being closely
monitored?

20

A. Yes.

21

22

Q. Digoxin levels on all of the
children?

23

A. Yes.

24

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Q. When you had that conversation



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with Bertha Bell finally did you make the connection?

A. The connection between what?

Q. Well between the Pacsai inquest, the high digoxin level involving Pacsai, the postmortem sample on Cook, the events that occurred that I have just related, did you put that together at that point?

A. No, I did not.

Q. So I take it that all of those events when taken collectively, once you were told this by Bertha Bell on Monday morning or afternoon, really indicated to you that there was a full scale investigation going on of some consequence?

A. I knew there was an investigation going on, yes.

Q. Had you ever been involved in any Hospital, and involved in any investigation up to that moment in time?

A. No, I had not.

Q. When she told you all of that, you had had - you were upset and concerned the night before when the head nurse called you. What was your reaction when Bertha Bell told you of all these new things?



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A. I thought they were questioning the competence and the actual care that was being given to the children on the floor.

Q. Yes. Did you speak to Phyllis Trayner that day, before you went to the meeting?

A. I don't remember whether she called me that day, or not.

Q. Were you aware of the fact that there were a number of nurses that went to Phyllis Trayner's apartment that Monday afternoon, did you go?

A. No, I did not.

Q. Were you invited?

A. Not that I recall, no.

Q. Is it your present recollection that you had no communication with Phyllis Trayner then up until the time you saw her at Liz Radojewski's house that evening?

A. I believe so. I am not 100 per cent sure, I know she called me at one point but I believe it was the Tuesday rather than the Monday.

Q. Certainly it was apparent to you, as I understand your evidence, on the Monday night, that whether or not you connected all the



1
2 things there was an investigation going on, whether
3 or not it was all inter-related, but separate
4 investigations going on on a number of things
5 quite apart from Pacsai and the inquest?

6 A. I knew that there was an
7 investigation on the floor. As far as I say that
8 I believed it was an investigation into the nursing
9 care and the care given to the children and I knew
10 that there was an inquest into the death of Pacsai.

11 Q. But investigation as to the
12 nursing care, but surely you must have connected that
13 with the nine baby deaths in the course of the
14 past 14 days, or 15 days?

15 A. I connect it with an increased
16 number of deaths, I don't ever recall knowing the
17 numbers.

18 Q. I suggest to you that you
19 knew that there had been an increased amount of
20 numbers from March 4th or March 5th on; and I
21 suggest that when you went there to the meeting at
22 Liz Radojewski's house it was really a question
23 of discussing with the team what is going on and
24 we have to stand up for our rights?

25 A. For our rights?

Q. Yes.



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A. There was a discussion of what
was happening, yes.

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Q. Did you resent what was happen-
ing?

6

A. No, I did not.

7

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Q. What did you feel about what
was happening?

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A. As I have expressed many times
I said I was glad that there was an investigation
going on.

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BB
BM/PS

Q. Was that the extent of your feelings then that evening that you were pleased that there was an investigation going on with respect to what was happening on Wards 4A and 4B?

A. With respect to an increased number of deaths and that they occurred on our team.

Q. And always at night.

A. Possibly, yes.

Q. And at that point were you relying on the explanation that you gave to Mr. Lamek, at least in your own mind, that it was just because of the fact that you and your team were getting the sickest babies or had you gone beyond that?

A. I believed, as I said, there was an increased number of deaths and that I felt if they wanted to investigate then perhaps they would see that the nursing care we had given was up to scratch and that if there were other things to find out, which in terms of a hospital investigation I thought maybe they were trying to find a common link in the deaths in terms of a virus, something that would explain why there was an increased number of deaths, like any kind of hospital investigation.

Q. Well, one thing that concerns me about that answer is that surely what pervaded all



Nelles
cr. ex. (Percival)

of the unusual events had to be digoxin, high digoxin in Pacsai, digoxin lockup on the night that Justin Cook died, the fact that the narcotics key is taken away on a Sunday, it talks all through that, medication. Did that not really come to your mind even on Monday night?

A. No, it did not.

Q. Were you told on Monday night that there were investigators in the hospital?

A. By who do you mean investigators?

Q. I just said were you told on Monday night that there were investigators in the hospital; very simple question, Miss Nelles.

A. My understanding is that it was a hospital investigation.

Q. Who would be doing that in the hospital, doctors?

A. The administrative people involved in the hospital.

Q. Were you told that there were police in the hospital that night?

A. No, I was not.

Q. Now, the next day we have heard evidence that you went - because you had the day off you went to the zoo with Bertha Bell.



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A. Could be.

3

Q. Well, do you remember that?

4

A. I don't remember that day, no.

5

Q. All right. In any event, at some

6

point in time and Mr. Commissioner I hear the
muttering in the back, it follows on in 394 and I

7

want to take it up, it is all Phase 1 I suggest

8

and I want to know in relation to it and I don't

9

propose - I am going to follow in through on 394

10

if I may. You were told on Tuesday by again the head

11

nurse were you not not to come in?

12

A. Yes, I was.

13

Q. What was the reason you were told -

14

the head nurse was again Elizabeth Radojewski?

15

A. Yes.

16

Q. What was the reason that she

17

gave you on Tuesday, March 24th why you should not come
in the next day?

18

A. I believe she explained to me that

19

the investigation was continuing and that by this time

20

I was getting a feeling that it was - well, I knew

21

by this time that it was our team that was specifically
being looked at.

22

Q. All right. Your team and the

23

investigation and then do I take it that beyond

24

25



4 1
2 question you knew that they were looking at a number
3 of baby deaths at that point?

4 A. I don't know whether I linked
5 that again or not.

6 Q. All right.

7 A. I remember it as they were in-
8 vestigating the nursing care of our team.

9 Q. Well, again, when you were told
10 that they were investigating what was your reaction
when the head nurse telephoned you on Tuesday?

11 A. Obviously it was very upsetting.

12 Q. All right.

13 A. And I was deeply concerned.

14 Q. You weren't told not to come
15 in the next day because of stress?

16 A. No, I was not.

17 Q. All right. Because I follow, if
18 you look at the bottom of page 215 and this is
19 obviously what you told Mr. Cooper and I want to read
through it. It says:

20 " - I didn't work Monday or Tuesday
21 because I'm off.

22 - I was to work Wednesday (days) - but
23 head nurse phoned and said that they
24 didn't want any of our team to work
25



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because of stress..."

3

and then the words, "because of stress" are crossed

4

out and then beyond that it is " - due to investigation."

5

A. Right.

6

Q. And that is your understanding
and that is correct up to that point?

7

A. Right.

8

Q. And then the next words are:

9

"That made me really alarmed."

10

Or,

11

"They made me really alarmed."

12

A. "They made me really alarmed,"

13

I believe is what it says.

14

Q. Again, was that something that
you expressed to Mr. Cooper, that was your reaction
to that telephone call?

16

A. Yes.

17

18

Q. Now, the next event, after the
head nurse telephoned you on Tuesday afternoon - before
I leave that did the head nurse tell you at that time
that there were any police officers in the hospital?

19

20

A. No, she did not.

21

22

Q. And after that telephone call
you received a telephone call from Phyllis Trayner, did
you not?

23

24

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3 A. Yes, I did. I believe it was the
Tuesday.

4 Q. All right.

5 A. As I say, I couldn't remember
6 whether it was the Monday or the Tuesday.

7 Q. In any event, she called you.
8 What did she say to you?

9 A. She was very concerned that our
10 team was being isolated and that they seemed to be
pointing the finger in our direction.

11 Q. Who is "they"?

12 A. The investigation.

13 Q. All right. And when you say
14 "isolated" you also mean accuse you?

15 A. No, I do not.

16 Q. Well, let's read what else is on
Mr. Cooper's writing, 394:

17 "Phyllis called me - she was really
18 upset - she said she was scared - felt
19 they were trying to accuse us."

20 A. Right.

21 Q. Did she say that to you?

22 A. Yes, she did.

23 Q. Did you agree with it?

24 A. No, I did not.
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Q. So, while she had a perception that she was or your team was being accused you did not have the same perception as a result of the events up to that point?

A. I felt they were looking at our team specifically but I did not feel they were accusing us of anything.

Q. Did you at that particular point, had you gone to the RNAO?

A. No, I had not.

Q. Now, the next page, and I don't know whether this is out of sequence because it talks in terms of a Monday night meeting, but in any event the last thing that I have on this:

" - no one would tell us anything.

- we knew they wanted us to stay off because of more than stress."

Is that accurate?

A. Right.

Q. When did you have that feeling that they wanted you to stay off because of more than stress? Was that when Liz Radojewski called you on the Tuesday?

A. That's right.

Q. Did you have that feeling on



Monday night as well?

A. I suspected that the reason that the hospital gave us the night off was not entirely due to stress.

Q. All right. Have you told me all that you can recall with respect to the discussion you had with Phyllis Trayner then that Tuesday afternoon, if it was the Tuesday afternoon, about what was going on at the hospital? Anything more?

A. I don't recall anything, no. I recalled that I was told that some time that afternoon, I don't know exactly whether - I believe it was from Mrs. Radojewski when she called to say that we were not to come to work on Wednesday - that she said there would be a press release or some kind of an announcement in the hospital on the Wednesday morning.

Q. I don't understand that. A press release or news release, why, the fact of what was going on on Wards 4A and 4B and what do you mean by that?

A. That Mrs. Radojewski told me that there would be an announcement made on Wednesday morning with regards to the investigation that was taking place.

Q. Did she give you any more



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particulars on that discussion?

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A. No, she did not.

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Q. Did you ask her what was going

5

on at the hospital; you hadn't been there since
Sunday morning.

6

A. Well, I had seen her on Monday

7

night and we had met as a group at the meeting.

8

Q. Did she give you any answers on

9

Monday night?

10

A. No, she did not.

11

Q. Did you make inquiries of anyone

12

else other than the Monday night meeting up until
Wednesday?

13

A. I came away from that meeting

14

feeling that as a group we were united and that we

15

felt that we were able to get through this difficulty.

16

Q. All right. And again that sort

17

of leads back to what I started with earlier this

18

morning about, you've got to be supportive of each

19

other and work as a team.

20

A. That's right.

21

Q. Did you sense anybody more

22

concerned or were you all mutually concerned in the
team?

23

A. There were some people at the

24

25



10 1
2 meeting that were more verbal and seemed more upset
3 by the investigation than others.

4 Q. Was Phyllis Trayner one of them?

5 A. She was one of them, yes.

6 Q. All right. Did you talk to Bertha
7 Bell on the Tuesday?

8 A. I believe I did, yes.

9 Q. Did you make some inquiries as to
10 what she - had she been working the Tuesday or do you
remember?

11 A. I believe, well, she was on the
12 corresponding team to mine, so, she would not be
13 working, no.

14 Q. Did you try to find out up until
15 Wednesday morning what the investigation was doing at
16 the hospital, aside from what you told her?

17 A. No, I did not.

18 Q. Mr. Sopinka asked you on the first
day at page 7945:

19 "Q. Now, at any time up to your arrest
20 did you think that anyone else was
21 administering digoxin..."
22 in an unauthorized manner. And the answer was by you:

23 "A. No..."

24 And then I lead you one step further: What about after
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your arrest and up to the present time did you believe
or did you think that anyone else was administering
digoxin to these babies in an unauthorized manner?

A. No, I did not.

Q. No, you do not even to the
present time? I want to be fair with you, it is
page 7945. The question was put by your own counsel
and I am just taking it one step further:

"Q. Now, at any time up to your arrest
did you think that anyone else was
administering digoxin that was not
prescribed or administering overdoses
of digoxin?

A. No, I didn't."

MR. SOPINKA: Well, I submit it's a
different --

THE COMMISSIONER: Just a minute, before
you say anything, Mr. Sopinka. Is this not in accordance
with this ancient rule of mine that we are interested
in the reasons why and not the conclusions that have
been reached?



DP.jc
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MR. PERCIVAL: Maybe I can end up then asking her has she received any other information that would tender to that because surely she is --

THE COMMISSIONER: Either one way or the other, ask what the information was and we then can say whether we --

MR. PERCIVAL: Q. Do you have an opinion --

THE COMMISSIONER: Just answer it yes or no.

MR. PERCIVAL: Q. Yes. Do you have an opinion, and answer it yes or no, from the time of your arrest up until the present time whether anyone else was administering digoxin that was not prescribed or administering overdoses of digoxin?

A. That possibility arises, yes.

Q. No --

THE COMMISSIONER: That will do. That is a good enough answer. I am more interested in the basis for it.

MR. PERCIVAL: Q. What is the basis for that opinion?

A. I think like many other people the fact that we have a baby, Justin Cook, who is not prescribed digoxin and who has a level that is



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extremely high, and the body does not manufacture that drug, and I guess that is the one thing that is hard to explain any other way.

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Q. I will go back, and I guess, page 213 of your statement involving Justin Cook, this is in your handwriting, that obviously when you were preparing this after your arrest you say at the very bottom:

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" ... there was almost always another nurse, besides myself, in the room."

You know that you did not give any digoxin to Justin Cook, did you?

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A. No, I did not.

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Q. Now for the purposes of this next question, Miss Nelles, I would like you to accept the premise that the Commissioner may find that out of these 36 baby deaths in this nine-month period there may have been six or seven or even ten unexplained baby deaths caused by the unauthorized or massive doses of digoxin prior to their death. I want you to accept that as a premise for the question. Do you understand?

A. Yes.

Q. And you said, and I think you have said it consistently for the last three or four



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days both to Mr. Lamek, Mr. Sopinka and to me, that you certainly were not responsible for the deaths of those babies if in fact they did have massive overdoses of digoxin. Is that not correct?

6

A. Right.

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Q. If you were not responsible for the deaths of those babies the obvious question to be asked is after you were arrested and you were no longer in the Hospital why did all the baby deaths stop? Do you have an answer for that question?

11

A. It is my feeling that --

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MR. SOPINKA: That is not right, they did not all stop. We had an inquest into Gary Murphy.

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MR. PERCIVAL: About six months later and she was not in the Hospital. Can I put the question again?

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MR. SOPINKA: How can she give an opinion? She was not there at the time. Surely this is a matter for argument. What value --

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THE COMMISSIONER: I am not going to require her to answer it. If she has any explanation that she can give us that would help us, that is fine, but if not, that really is --

MR. SOPINKA: That is what the



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Attorney General said.

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MR. PERCIVAL: If my friend has a valid objection, let him rise. This is still a reasonably responsible Commission.

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THE COMMISSIONER: All right. Now, he has objected to it because in fact what you are asking her to do is to draw a conclusion that really is mine to draw if I want to draw it and to explain it as Mr. Sopinka says. If she has any information that would help us in the matter I would like to hear it.

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MR. PERCIVAL: I would too.

THE COMMISSIONER: I frankly doubt that she has any but maybe she has. Therefore I say if you think you can help us in that, Miss Nelles, you can answer the question.

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THE WITNESS: The only thing that I might say is that a number of things changed after my departure from the Hospital. No. 1, the treatment of the drug digoxin.

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MR. PERCIVAL: Q. If someone else was responsible presumably because of the treatment of the drug digoxin they did not continue to do what they were doing to those babies, if the Commissioner makes that finding. Isn't that true? If it is not you, whoever it was did not do it after that?



CC.5

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A. Right.

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Q. I guess that goes back to

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Mr. Hunt's last question to you. Do you take anything
5 from that that somebody by stopping may have been
6 trying to undermine the guilt that people were
7 attributing to you because you had been arrested for
8 the murder of those children?

8

A. I don't understand your question.

9

MR. SOPINKA: I did not think police
10 officers attributed guilt. They are not supposed to
11 anyway.

12

THE COMMISSIONER: I don't think we
13 are talking about police officers attributing guilt.

13

MR. SOPINKA: Who are we talking about
14 then?

15

THE COMMISSIONER: I think he was
16 talking about the public.

16

MR. PERCIVAL: That is right.

17

MR. SOPINKA: There is no evidence that
18 the public was attributing guilt.

19

THE COMMISSIONER: Well, let us be
20 realistic, Mr. Sopinka. I think the public, not you
21 or I or Mr. Percival but the public, very often do
22 attribute guilt on arrest. It should not be but that
23 is what happens.

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MR. PERCIVAL: Q. What I am asking, Miss Nelles, did you think that after the baby deaths stopped that someone was trying to implicate you because they stopped doing what they had been doing, if that be the finding of this Commission?

A. There were a number of things that entered my mind and as I said that was one of them.

MR. PERCIVAL: Thank you. Miss Nelles, I will talk to you on another occasion.

THE COMMISSIONER: Yes, Mr. Roland?

CROSS-EXAMINATION BY MR. ROLAND:

Q. Miss Nelles, my name is Roland. I am acting for the Hospital. I will have a couple of questions for you.

To begin with, I want to talk to you about seizures. In some of the nursing notes that you made with respect to the babies that were in your care and died, you used the word seizure or seizure activity and I want you to help us understand, expand on what you meant or what you observed when you said seizure or seizure activity?

Just so that we can put it in some context, with respect to Baby Cook you did tell us a little bit more besides using the word seizure. You



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said vital signs were started when the baby began to have a seizure. There was arching of the back and a general rigidity lasting for approximately 30 to 45 seconds, and you gave us some description about that seizure. Can you recall anything else about that seizure which you described as a seizure?

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A. Nothing more than what I wrote.

9

Q. For instance, the eyes rolling or the limbs extending or any of those sorts of things?

10

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A. Specifically with respect to Justin Cook?

12

Q. Yes, with respect to Cook?

13

A. I don't recall anything more than what I recorded.

14

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Q. All right, let us go on. With respect to Miller you indicated in your nursing note that at approximately 2:45 the babe began to seizure i.e. became very rigid and extended legs and arms.

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18

A. Right.

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Q. With respect to Allana Miller, do you recall anything else, any other physical manifestations of seizure apart from what you have described there?

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A. As I say, I recall it mainly as

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a rigidity. There were some tremors.

3

Q. Was there an arching of the back?

4

A. Yes, there was.

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Q. It was much I gather similar to the kind of seizure that you saw with respect to Baby Cook?

7

A. I think so, yes.

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Q. With respect to Baby Pacsai, in your note describing the events before he transferred to the ICU, you said that he showed again frothing at the mouth and occasional twitching of the arms and then a question mark and seizure activity. When you wrote "question mark, seizure activity" are you referring to the twitching of the arms?

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A. I was querying it as to whether it was an actual seizure. I was not, as a nurse, absolutely sure whether it was a seizure so I said -- instead I described some of the symptoms rather than actually call it a seizure.

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Q. You said occasional twitching of the arms and frothing at the mouth. Do you recall any other physical manifestations that you would characterize as possible seizure activity?

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A. I believe that Baby Pacsai had a lot of rolling of the eyes.



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Q. Was there any arching of the back?

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A. I believe so, yes. I think that is what triggered my first response in terms of they were taking an X-ray when this happened.

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Q. How about extending of the legs and arms? Do you recall that with respect to Baby Pacsai in this possible seizure activity?

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A. I don't really remember that.

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Q. With respect to Amber Dawson, and you have told us you don't remember much about Amber Dawson apart from what is in your note, in your note you said baby started to gag and choke, some seizure activity. You don't tell us in your note anything further about that. Do you have any recollection of what that seizure activity was?

A. I don't really remember. It appeared like a seizure to me, so --

Q. When you write seizure activity and you say it appeared like a seizure what do you see as a seizure or seizure activity? Is that, for instance, always arching of the back?

A. That is a symptom I usually consider, yes.

Q. When you wrote "some seizure activity" I gather because you saw some seizure activity,



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it may or may not be arching of the back?

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A. Right.

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Q. Or would it in every case be arching of the back?

5

A. I am not sure. That seems to me to be one of the major characteristics that I can recall.

8

Q. What other characteristics do you say are seizure activity?

10

A. Certainly extension of the limbs and twitching activity.

(2)

11

12

Q. Yes. What about rolling of the eyes?

13

A. That is quite often one, yes.

14

Q. Any others you can think of that you recall in these babies when you used the term seizure activity?

16

17

A. Those are the ones I remember most clearly.

18

19

Q. Let me turn to another subject. It is Baby Pacsai. You told us in some detail about the events immediately preceding the transfer to the ICU and your criticism of Dr. Ning going home. You thought he should not go home, given the description that you had provided to him. If I should go through

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those events, from the time you returned to Baby
Pacsai, as I understand it from your notes you
returned about 3:30 to Room 431?

5

A. Are you looking at these notes
or at the actual progress notes?

6

7

Q. I think that was in your own
handwritten notes, either there or in your evidence,
that you returned about 3:30.

8

9

A. Yes.

10

11

Q. In the chart you recorded, page 65,
you tried to feed him about 4 o'clock?

12

A. Yes.

13

Q. I take it nothing much happened
between 3:30 and 4 o'clock?

14

15

A. I must have taken his vital
signs and just got ready to do the feeding.

16

17

18

Q. As you tried to feed him I
gather he was not interested, as you said, in his
bottle?

19

A. Not at all.

20

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Q. You then noticed that his heart
rhythm was irregular and you tried to stimulate him
and you notified Dr. Costigan and Dr. Kantak who were
there, I gather, on the ward at the time and they
came in to have a look at Baby Pacsai?



CC.12

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A. Yes.

3

Q. And looked at his rhythm strip?

4

A. Right.

5

Q. When you say strip, I take it
that is his rhythm strip?

6

A. From the cardiac monitor.

7

8

Q. And then you say that he was put
on 70 per cent oxygen?

9

A. Right.

10

11

Q. And in brackets it has "hood on
head". I take it that is the oxygen hood?

12

A. Right.

13

14

Q. I gather that was something that
Dr. Costigan and Dr. Kantak agreed should be done at
the time?

15

A. Right.

16

17

Q. How long were they in the room
on this occasion with you and Baby Pacsai, approximately?

18

A. Not for very long.

19

Q. Was it two minutes or ten minutes?

20

A. Only a couple of minutes, I would
say.

21

22

Q. Was it at that time that they
were in the room that Baby Pacsai gagged and vomited?

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It seems when you turn to your next page, 111, you

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said I believe it was at this time that he gagged
and vomited and I took from that that it was at the
time that Dr. Kantak and Costigan were in the room.
Am I correct in that, or do you recall?

A. I am not sure about that.



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Q. Because a little further down you say that Dr. Costigan, it appears that Dr. Costigan was in the room with Mrs. Trayner and observed the 1:2 block occurring.

A. 2:1, yes.

Q. 2:1 block. However, this seemed to disappear for a short while and Dr. Costigan left. So I gather from this note it does appear to assume that Dr. Costigan probably was in the room when the baby gagged and vomited, at least it appears from the way of the chronology in your notes.

A. I can't remember exactly.

Q. In any event, I gather Dr. Costigan was in the room at the time that the observations were made of the 2:1 block.

A. Right.

Q. And things seemed to settle down at least for a short while, long enough it appeared for Dr. Costigan to be satisfied that he could leave without any further intervention.

A. Possibly, yes.

Q. Did Dr. Costigan indicate to you at the time, do you recall, that he thought there should be any further intervention at that time?

A. Dr. Costigan was very busy with



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2 finishing up the Manojlovich arrest, because he was
3 involved. I recall that, you know, he was trying to
4 do a number of things at one time, and it is my
5 feeling that he sort of came in and out of the room.
6 I think he knew that I was concerned but I don't
7 know what other responsibilities he had as an associate,
8 or certainly the chief resident in the hospital.

8 Q. All right. I gather at this stage,
9 this is some minutes after 4:00, 5 or 10 minutes,
10 because you said you said you tried to feed the baby
11 about 4 and these events are occurring I gather
12 within 5 or 10 minutes, in a 5 or 10 minute time
13 frame, about that time.

14 A. I think so, it is hard to say.

15 Q. And then you next say you
16 continued to monitor Baby Pacsai and stayed with him
17 for 15 or 20 minutes, and observed I gather at the
18 end of 15 to 20 minutes that his respiration was
19 shallow and that his apex was dropping, and I gather
20 that alarmed you enough or concerned you enough that
21 you called in Dr. Kantak and Dr. Ning.

22 A. Dr. Ning, yes.

23 Q. And they were both on the floor
24 at the time?

25 A. Yes.



1
2 Q. And Phyllis Trayner I understand
3 was with you this entire period, was she?

4 A. She came in after I started to
5 feed him, I remember.

6 Q. And she stayed in the room right
7 up until the time he was transferred to the ICU, I
8 think, didn't she?

9 A. Yes, she did.

10 Q. Why was that?

11 A. I guess she knew that that night
12 the floor was very chaotic, in that we had just got
13 finished with the Manojlovich arrest. The mother of
14 the Manojlovich baby was extremely upset and was even
15 determined as suicidal. So the team leader on
16 4B who was Mary Jean Halpenny, and certainly Debbie
17 Harwood-Jones, who was the nurse responsible for
18 Manojlovich, was sort of away from the central part
19 of the floor, they were down with Mrs. Manojlovich
20 trying to look after her. So I was virtually alone
21 in this room. I think Phyllis could see just how
22 concerned I was with this baby, and that I was really
23 worried that we were going to have another arrest and
24 this baby was just extremely - showing a number of
25 very serious cardiac anomalies, I'm sorry, not
anomalies but irregularities of the heart pattern.



1
2 Q. I gather up to this stage those
3 irregularities came and went. In other words there
4 were periods of time when they appeared more serious
5 and other periods of time when they seemed to settle
6 down a bit and not be as serious.

7 A. That's right.

8 Q. And we are at the stage where
9 you called in Dr. Kantak and Dr. Ning, and they had
10 a look at the baby, and his monitor strip. I gather
11 again this was a period in which the baby seemed to
12 settle down a bit.

13 A. When they came into the room.

14 Q. And monitored his strip and had
15 a look at him.

16 A. Right.

17 Q. I gather what was frustrating for
18 you was because you were alarmed, you had seen Baby
19 Pacsai in a much more severe state a little earlier,
20 and when you called in the doctors to have a look at
21 the baby and to observe what you had observed, the
22 baby had settled down and they couldn't see what you
23 had seen.

24 A. To some extent, yes, but Dr.
25 Costigan had been in the room with Dr. Kantak earlier
on.



1
2 Q. Yes.

3 A. And it is my feeling that Dr.
4 Costigan told me that Dr. Ning was the cardiac fellow
5 on the floor and that I should really be talking to
6 him.

7 Q. And you did talk to him, I gather,
8 and you explained what you had seen, but he was seeing
9 something different than what you were explaining to
10 him.

11 A. But he only stayed in the room a
12 very short time.

13 Q. And you have told us that, and
14 he left and then again the signs, symptoms and
15 conditions that had earlier appeared with Baby Pacsai
16 reappeared?

17 A. Yes.

18 Q. He again exhibited very serious
19 condition, bradycardia, tachycardia, and then that is
20 when you went looking again for Dr. Ning.

21 A. Right.

22 Q. You found him to be gone home,
23 but you did find Dr. Kantak.

24 A. Right.

25 Q. And followed within a short
time by Dr. Costigan at your request.



Nelles
cr. ex. (Roland)

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A. Dr. Costigan came to the floor.

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Q. Yes.

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A. Yes. I asked Dr. Kantak if he could please get, when I found out Dr. Ning had gone home I asked him if we could please get Dr. Costigan back to the floor.

Q. And he did come up to the floor within a short period of time?

A. Right.

Q. What you wanted I gather, given the circumstances that you found Baby Pacsai in, and the sort of signs that he was exhibiting, you wanted more intensive care for the baby, I gather?

A. I wanted them to listen to what I was saying, and in fact that he was exhibiting these signs.

Q. I gather what you also wanted, given those signs, that he had more intensive care and in particular the kind of care he could receive not on 4A/4B but rather in the ICU.

A. Yes.

Q. And that is why you asked that he be transferred to the ICU.

A. I felt that he was ill, yes.

Q. And that is what you do with very



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sick babies like Baby Pacsai, when they are that ill
on 4A/4B they are transferred to the ICU?

4

A. That's right.

5

Q. You asked that be done and it was
done.

6

A. Right.

7

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Q. And I gather as well, and you
understand from your time on 4A/4B it is not always
easy to simply transfer a baby immediately to the ICU,
there has to be a spot for the baby and they have to
somewhat to some degree anticipate the baby's arrival
to prepare for it, and that process was put in motion
really upon your requesting it, or pointing that
out to Dr. Costigan and he concurred with you I
gather.

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A. Yes.

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Q. And that process was put in
motion in the normal way?

18

A. Right.

19

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Q. And he went down to the ICU, and
I gather you have no complaint at all about the kind
of medical attention that Baby Pacsai received in the
ICU.

21

22

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A. No, I do not. It is just my, as
I have explained, my concern was that the cardiac fellow,

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the person who was supposedly the most experienced
on the floor had left.

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Q. Had left.

5

A. Right.

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Q. If he had been there, if he had
been there I gather what you would have requested of
him was what you requested of Dr. Costigan, that is
this baby go to the ICU?

9

A. Right, but I guess I felt that
was not Dr. Costigan's role.

11

Q. Although Dr. Costigan did fill
that role, didn't he?

12

13

A. Right.

14

Q. So even if Dr. Ning had been
there the same result - you would have been seeking
the same result, that is to get Baby Pacsai
to the ICU?

16

17

A. Right.

18

Q. And Phyllis Trayner you say was
with you throughout this entire period, because of
your anxiety about Baby Pacsai.

19

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A. And no one was around.

21

22

Q. And no one was around, and they
were busy with the other arrest, the Manojlovich baby
and all of the events that followed that. I gather

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1
2 you have told us that Phyllis Trayner went with you
3 to the ICU.

4 A. Right.

5 Q. Why did she accompany you to the
6 ICU?

7 A. I don't know, other than to help
8 actually wheel the baby with the oxygen and his
9 intravenous equipment and what not.

10 Q. I gather that operation took more
11 than simply you and Dr. Costigan, it really was
12 something that required three people rather than two.

13 A. I don't think that we were really
14 aware that Dr. Costigan was actually coming with us
15 when we set up the crib to go, but he did stay and
16 accompany us down.

17 Q. So what you are really saying
18 is that it doesn't really require two people to go
19 and it was you and Phyllis Trayner that decided you
20 would carry out that procedure of transferring him,
21 the baby, the oxygen, the I.V. and so on.

22 A. Right.

23 Q. Now you have told us about your
24 procedure of giving medications to babies during this
25 nine month period, that you would give the medication
at the time that was indicated in the charts and that



Nelles
cr. ex. (Roland)

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you would at the end of the shift do your charting,
that is your signing off of the medication. Do I
understand that you did keep on your crib sheet
some record of the medications that you actually
gave as you went through the shift, is that something
that you noted down on your crib sheet?

A. I didn't write it on my sheet, no,
but I would refer to that frequently to make sure that
I was giving the medications that were required,
and that I didn't forget any.

Q. The right medications at the
time due?

A. Yes. I would always write that
down on my sheet.

Q. Would you tick them off as you
gave them or anything like that?

A. Not usually, no.

Q. I gather because you are not
on, you have not been on 4A and 4B from the time
of your arrest, that you don't know what the present
system is in operation, and what the charting system
is presently on that ward?

A. No, I do not.

Q. That it is a unit dose system
and the charting and the signing off procedure has



Nelles
cr. ex. (Roland)

11 1
2 changed substantially. I gather you are not aware
3 of that?

4 A. No, I am not.

5 Q. Let me ask you one last question
6 about medication errors. I gather as a nurse on
7 Ward 4A/4B you knew at the time, and you would know it
8 from the nursing manual that there was a procedure
9 in effect for dealing with medication errors if they
10 were detected.

11 A. Right.

12 Q. You knew you were to report those
13 errors to your team leader or your head nurse?

14 A. Right.

15 Q. And that those errors would be
16 documented?

17 A. Right.

18 Q. And that the errors would be
19 discussed with the nurse who had made the error, by
20 the head nurse?

21 A. Right.

22 Q. And that you knew was common
23 procedure for the ward?

24 A. Yes.

25 MR. ROLAND: Thank you. Those are all
my questions.



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THE COMMISSIONER: Thank you, Mr. Roland.
Miss Chown.

MS. CHOWN: Thank you. I think in view
of Mr. Roland's examination I don't have any questions.

THE COMMISSIONER: Yes, all right.
Thank you. Miss Kately, do you want to go on now or
do you want to wait?

MS. KATELY: Actually, Mr. Shinehoft
is rather anxious to be done, I am sure if he goes
after me he will still get in today but I am quite
prepared to have him go first.

THE COMMISSIONER: Mr. Shinehoft.

MR. SHINEHOFT: It doesn't matter to
me whether I follow, I am prepared to go on after
the break.

THE COMMISSIONER: He is prepared to
go on after you. It is very gentlemanly and ladylike
of both of you.

MR. SOPINKA: Well I suppose Mr.
Percival would like to go on after again.

THE COMMISSIONER: I think, Miss
Kately, your offer has been rejected. So you decide
now whether you want to go on now or after the break.

MS. KATELY: I would like to set up
the I.V. and I would prefer to go after the break.



Nelles

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THE COMMISSIONER: Yes, all right.

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We will take 20 minutes then.

4

---Short recess.

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BM/ak

---Upon resuming.

THE COMMISSIONER: Yes, Miss Kately.

MS. KITELY: Thank you,
Mr. Commissioner.

CROSS-EXAMINATION BY MS. KITELY:

Q. The witness has in front of
her the IV apparatus which has been marked an
exhibit and for today, sir, it is on an IV pole
which would normally stand on the floor but has
been adapted for purposes of the hearing.

For those who are not as close to
it as you, sir, might I refer my friends to Exhibit
306 which is the picture of the IV pole which has
all of the parts of it labelled.

Now, Miss Nelles, what I am ultimately
asking you to do -- oh, I'm sorry, I ought to have
started out by introducing myself. My name is Kately
and I act for the Registered Nurses' Association
and 39 individual nurses, most of whom you have
worked with at one time or another.

What I am asking you to demonstrate,
Miss Nelles, is flushing the IV line. We heard
Mr. Sopinka analogize it to cleaning out your
martini glass before you put in your wine and while
it might be descriptive it might not necessarily be



1
2 accurate and I'm hoping we can leave the Commissioner
3 with a little more accurate description.

4 MR. SOPINKA: It is one he would
5 better understand probably; it is certainly one I
6 understand better.

7 MS. KITLEY: Q. Now, Miss Nelles,
8 we've got the IV apparatus and perhaps so that we
9 are starting on the ground floor would you just
10 identify the major portions of it?

11 A. Okay. You have the IV solution
12 which in this case is two-thirds and one-third of
13 dextrose and sodium chloride.

14 THE COMMISSIONER: That's called
15 the bag is it not?

16 THE WITNESS: That's right, that's
17 the IV bag. Then there is actually an injection
18 port on the bag itself so that if you wanted to mix
19 something directly into the IV solution up here into
20 the bag you could.

21 MS. KITLEY: Q. Could you give us
22 an example of what you would put in there?

23 A. usually various electrolytes
24 like potassium, might require more sodium, that kind
25 of thing.

THE COMMISSIONER: Is that the



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only way into the bag?

3

THE WITNESS: Yes.

4

THE COMMISSIONER: You can't get

5

in at the top?

6

THE WITNESS: No, it cannot.

7

MR. SOPINKA: Well, does it run

8

upstream?

9

THE WITNESS: Pardon?

10

THE COMMISSIONER: Does it run up-

11

stream is the question, gravity doesn't seem to
work that well.

12

MS. KITLEY: Q. If you were to

13

put something -- might I assist this way, sir?

14

THE COMMISSIONER: Yes.

15

MS. KITLEY: Q. If you were to put

16

something in through that site or port, as you say,
what would you then do with the bag?

17

A. I would inject this part of

18

the setup into the bag.

19

Q. Would you take the bag off the

20

pole and shake it?

21

A. Oh, before I would actually

22

hang this solution, I would have just the bag.

23

THE COMMISSIONER: Oh, I see, yes,

24

all right. But if you wanted to, after the bag was

25



1
2 in place, you wanted to inject something in the bag,
3 you would take that stopper off.

4 THE WITNESS: Not take it off,
5 it's rubber, so, you just inject the needle right
6 through it.

7 THE COMMISSIONER: Right through it.
8 And that doesn't cause a leak or anything like that?

9 THE WITNESS: No, it doesn't.

10 THE COMMISSIONER: And it just
11 simply goes up and mixes with the solution inside.

12 THE WITNESS: Yes, you would probably
13 shake it around or whatever to make sure it was mixed.

14 THE COMMISSIONER: All right.

15 THE WITNESS: Then this is sort of
16 almost like a needle which actually goes into the
17 solution so that it will freely flow down into the
18 buretrol.

19 MS. KITLEY: Q. You're referring to
20 the gray part just below the bag?

21 A. Right, this part here.

22 Q. Yes. And it is a little
23 platform as you will?

24 A. Right.

25 Q. You are describing that as
the needle that goes into the bag?



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A. Well, it's sharp so that it punctures the bag when you push it up into the solution so that it will flow down.

Q. And when you are hanging an IV, it is your function to put that needle into the bag?

A. Right.

Q. What's next?

A. Then this is like a stopcock.

Q. And what's the function of the stopcock?

A. When the blue tab or roller part is at the upright position then it is closed and no fluid will flow down and when it is at the bottom part then the solution will flow freely from the bag to the buretrol.

Q. I think you just had your hand behind it between you and the Commissioner. Will you demonstrate the up and down again for him so that he can see?

A. When it is in the upright position, such as this, it is closed and nothing will flow down.

Q. Through the buretrol?

A. Right. When I open it it should



1
2
3 go down. There, you will see the solution.

4 Q. So, you have put the blue roller
5 in the down position?

6 A. Right.

7 Q. As a result of which fluid is
8 flowing from the bag into the tubing and then into
9 the buretrol?

10 A. Right.

11 THE COMMISSIONER: I'm sure you're
12 going to deal with this but I thought the buretrol
13 was what controlled the flow but you can also control
14 the flow from the bag to the buretrol.

15 THE WITNESS: In adult hospitals
16 for instance they don't even use a buretrol, you
17 would simply have the tubing attached to the bag but
18 because we are dealing with children and we want to
19 use very small amounts and be able to see what
20 amounts we are using, we use a buretrol.

21 THE COMMISSIONER: But with children,
22 would you do some adjusting of the flow between the
23 bag and the buretrol, is there any merit in that?

24 THE WITNESS: Except when you want
25 to actually put fluid into the buretrol. I would
say that in most cases this stopcock is closed and
that the flow is coming straight from the buretrol



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and not from the bag.

3

4

MS. KITLEY: Q. What's next on
the equipment?

5

6

A. Okay, we have the buretrol
itself, unless you are including the tubing.

7

8

Q. Yes, there is tubing on either
side of the stopcock?

9

A. Right.

10

Q. What about the little blue
thing that looks like a clothespin?

11

12

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A. This is like an air filter
and fluid won't flow into a vacuum, so, you have
to have some form of air going into the buretrol
and so this sort of filters the air, there is a
filter on the end but it does allow the air to go
into the buretrol so that fluid will flow.

17

Q. And the little blue thing I
am calling a clothespin is a clamp?

18

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A. Right. That is kept open
on almost all occasions except if this filter gets
wet, like, with fluid then it impedes the flow of
the liquid through the buretrol. So, if for
instance you wanted to get rid of, put some of the
fluid that was in the buretrol back into the bag
then you would close this so that it didn't get wet,



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like, in other words when you tipped it upside down the fluid didn't run back into the filter and get it wet, but in normal everyday use that filter is kept open.

Q. And would you have occasion to want to put fluid from the buretrol back up?

A. Sometimes, yes, when you get too much into the buretrol than what you actually desire.

Q. All right. And still on the top of the buretrol there is another little knob, what do we call that?

A. We have another injection port at the top of the buretrol.

Q. And if an antibiotic were being injected into the buretrol would it be from that little knob?

A. That's right.

Q. And we get into the buretrol and below that?

A. Is the drip chamber.

Q. I don't know how clear it is but it is now about half full, is that right, the drip chamber?

A. The drip chamber, yes.



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Q. And the buretrol is about?

3

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A. It has about 35 cc's of fluid
in it, millilitres, whatever.

5

6

Q. Now, can you help us with
the rest of the line?

7

8

A. Okay. Then we have the tubing
that flows directly from the drip chamber.

9

10

11

THE COMMISSIONER: Yes, but there
is no way of getting into the buretrol either by
the drip chamber or the bottom of the buretrol,
they can only get in at the top?

12

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THE WITNESS: Right. Then we have
the tubing that comes down from the drip chamber.
We have another stopcock that controls the actual
flow of the buretrol and then we have two further
injection ports actually on the intravenous line
itself and these are used only by physicians.

17

18

MS. KITLEY: Q. Because that's
an injection below the buretrol?

19

20

A. That's right.

21

22

Q. Yes.

23

24

A. So that would be considered
an intravenous push drug.

25

Q. Yes.

A. And then you have the actual



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tip that inserts into the butterfly or the needle
used that's in the vein of the patient.

3

4

Q. And right at the very end just
before the end is a green thing, is that described
as the butterfly?

5

6

7

A. That's the butterfly, right.
That would be, as I say, inserted into the vein of
the patient.

8

9

10

Q. All right. Now, can you do
what you have to do to make liquid flow between the
bag and the buretrol?

11

12

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15

A. Okay. If I want solution
from the bag to go into the buretrol I open the
stopcock between the bag and the buretrol and in
this case it's not flowing too freely but when I
squeeze it it will come out.

16

17

Q. And it is going into the
buretrol?

18

19

20

A. Right.
Q. And into the drip chamber,
is that right?

21

22

23

A. The drip chamber level will
stay approximately the same when you are filling
the buretrol.

24

25

Q. Okay. Now, what I would like



Nelles, cr.ex.
(Kitley)

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you to demonstrate is the flushing of the buretrol.

3

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A. Well, if you were to inject,
say, an antibiotic at this point.

5

THE COMMISSIONER: This point being?

6

THE WITNESS: The injection port.

7

THE COMMISSIONER: The injection
port, the top of the buretrol.

8

9

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THE WITNESS: Right. You would
be mixing it at present with 60 ml's of IV solution
and then you would decide what period of time that
you wanted that to run in. So, if you wanted it to
run in over an hour then you would set your IVAC
pump, which would be attached to this.

14

MS. KITELY: Q. By this you mean?

15

16

17

A. To the drip chamber. That
would control the rate and, in other words, 60 ml's
of fluid would go into the patient in one hour's
time.

18

19

Q. And if you had put, let's say,
ampicillin.

20

A. Right.

21

Q. Into the buretrol.

22

A. Right.

23

Q. And if it took an hour for it
to go through.

24

25



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A. Right.

4

Q. Would there be some fluid left
in the buretrol at the end of the hour?

5

A. There shouldn't be much, it
should be empty before you flush the intravenous.

7

Q. Okay. If it is almost empty
then what is the purpose of the flushing?

8

9

A. That some of the ampicillin
is left in the very bottom. You can't get every
drop. There will always be some at the bottom,
both liquid and possibly drug.

10

11

12

MS. KITLEY: Is there a problem,
sir?

13

14

THE COMMISSIONER: Well, I am
having a little problem. Presumably you are feeding
this child by some fluid in the bag though?

15

16

THE WITNESS: Right.

17

18

THE COMMISSIONER: That fluid goes
into the buretrol, into the drip chamber through
that IV line and into the child.

19

20

THE WITNESS: Right.

21

THE COMMISSIONER: Now, presumably
when you put the antibiotic there is some fluid in
the buretrol, is that right, and would there not
continue to be fluid in the buretrol as this

22

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3 antibiotic goes through. Would there not continue
4 to be. What's happening to the feeding of the child.
5 Are you just not feeding it or do you close it
6 off?

7 THE WITNESS: Perhaps I can show
8 you that this port --

9 MS. KITLEY: Q. You are talking
10 about the bottom port on the line.

11 A. This, I'm sorry.

12 Q. The stopcock?

13 A. The stopcock is open and,
14 as you will see, it starts to drip and flow from
15 the buretrol through the line. So, that 60 cc's
16 will get down to zero.

17 THE COMMISSIONER: That's fine. I
18 take it then during the time you put in the anti-
19 biotic you are not going to have any feeding of the
20 child from the fluid up in the bag, is that right?

21 THE WITNESS: No, you are not.

22 THE COMMISSIONER: You put the
23 antibiotic in while there is still fluid in the
24 buretrol or do you wait until it's all gone out or
25 what happens?

THE WITNESS: You would normally
open the stopcock and let in perhaps 30, whatever



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you are going to mix it with, and then add the
antibiotic and make sure that it is mixed.

3

4

THE COMMISSIONER: And I take it
that during all of this period the fluid from the
bag wouldn't be passing down to the buretrol, is
that right?

5

6

7

THE WITNESS: No, the stopcock
would always be closed.

8

9

THE COMMISSIONER: And then if you
wanted to feed the child again you would presumably
flush out the antibiotic?

10

11

12

THE WITNESS: Right.

13

THE COMMISSIONER: In some way you
are going to tell us about.

14

15

THE WITNESS: Right.

16

THE COMMISSIONER: And then you would
start feeding the child again?

17

18

THE WITNESS: Right.

19

MS. KITLEY: Q. Just on that point,
sir. If you were administering a medication of
any kind into the buretrol, let's say one cc per
30 ml's.

20

21

22

A. Right.

23

Q. Would you put 30 ml's into
the buretrol?

24

25



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A. Right.

3

4

Q. Measure that and then administer
the medication into the top of the buretrol?

5

A. Right.

6

7

Q. All right. Let's assume
that you've done that.

8

A. Okay.

9

Q. And that the medication has
gone through.

10

11

A. This isn't high enough, that's
why it's not flowing. But when this is empty.

12

Q. When the buretrol is empty.

13

14

15

A. Right, and then you are required
to flush the intravenous and what you would do is
that this would not be flowing, it would be stopped
because there isn't any more that can go through.

16

17

Q. The drip chamber wouldn't be
flowing?

18

19

20

A. Right, and it would be empty
and you would open your stopcock to the bag and let
in the 5 or 10 cc's that you need to flush it with.

21

Q. All right.

22

THE COMMISSIONER: 10 cc's of what?

23

THE WITNESS: Of this solution.

24

THE COMMISSIONER: Yes, yes.

25



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3 THE WITNESS: And you would be
4 measuring it from your buretrol.

5 MS. KITLEY: Q. Would you do that
6 once more. Just turn it around so that the
7 Commissioner can see the top stopcock and let in
8 a prescribed amount so that it can be measured while
9 you're doing it.

10 A. Okay, right now we're at 60
11 and I open it and let in another 10. So, it is now
12 at 70.

13 THE COMMISSIONER: From the top of
14 the buretrol at the port you then insert the anti-
15 biotic?

16 THE WITNESS: Right. Oh, this is
17 the flushing though, I'm assuming that --

18 THE COMMISSIONER: This is all part
19 of the flushing. Yes, yes, I see, all right.
20 But the flushing purpose you then let in --

21 THE WITNESS: The 10 or 5 or whatever.

22 THE COMMISSIONER: Yes, all right.

23 THE WITNESS: So, this would be
24 empty, it would never be at 70 like it is now.

25 MS. KITLEY: Q. It is only that
way because the pole and the bag isn't high enough,
is that correct?



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A. Right, it's not flowing fast
enough.

4

5

6

Q. Right. So, you having just
changed the glass from martini to wine, is that
correct, to use Mr. Sopinka's terminology?

7

A. That's right.

8

Q. All right.

9

10

THE COMMISSIONER: No, no, I don't
think so. He doesn't put the wine in until after he's
flushed it. Am I right?

11

MR. SOPINKA: That's right.

12

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MS. KITLEY: That's probably more
accurate.

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FF.1

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MR. SOPINKA: Obviously Miss Kitley is not an authority on that subject.

MS. KITLEY: Not on martinis.

MR. SOPINKA: I think we need a patient. Mr. Lamek volunteered.

MR. LAMEK: Sure.

MS. KITLEY: Q. One last question. You have just demonstrated flushing using the stopcock and I understood that while you do not use this procedure or have not in the past that one can flush using a syringe. Is that right?

A. I suppose that is one way, yes.

Q. And if one flushed using a syringe you would use the port on top of the buretrol?

A. Yes.

Q. Will that be in the way if we leave it there for the balance of the afternoon?

A. No.

Q. I have a couple of other matters to cover with you, Miss Nelles. You indicated that you had understood in the fall of 1980 that you would be considered for a team leader position.

A. Right.

Q. When the opening came up in March you were disappointed that Mrs. Radojewski had



FF. 2

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not appointed you to that position?

3

4

A. Not so much that she had not appointed me but that she had not told me or informed me of how she went about her selection.

5

6

7

Q. Even though she did not inform you, am I correct that there was a reason why you were not elevated to the position of team leader?

8

9

10

A. I understood that Joan MacIntosh was the back-up team leader to the team leader that was actually leaving.

11

Q. Miss Fitzgerald?

12

13

14

15

16

A. Right. So in logic, rather than disrupt the team it would in fact be easier for the back-up team leader to move into a team leader position than to bring someone new into that position, but I never had that explained to me and I never heard that except from my own surmising.

17

18

19

20

Q. Just as if Mrs. Trayner had left, you were the back-up team leader, you would have expected to be placed in that position as was Miss MacIntosh placed in Miss Fitzgerald's position?

21

A. Yes.

22

23

24

25

Q. I would like to deal with a couple of things that Mr. Strathy was asking you about with respect to Code 25's. Am I correct that



FF.3

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when the Code is called the nurse in the room who
has made the decision to call it yells 25?

3

4

A. Right.

5

6

Q And there is a button in the
room that puts a light on outside the door?

7

8

A. That would not normally be done.
It would not normally be yelled and someone would go
to the desk and make the phone call.

9

10

11

Q And simultaneously with the
phone call being made, am I correct that CPR is
started?

12

A. Yes, it is.

13

14

Q So when one calls a Code 25 the
two, the telephone call and the CPR, are virtually at
the same time?

15

16

A. As soon as possible CPR is
initiated, yes.

17

18

19

20

Q Mr. Strathy was suggesting to you
the other day that one could call a 25 and not start
the CPR, but that is not your understanding of the
procedure?

21

22

A. No. When you call a 25 that
suggests an arrest and cessation of the heart and, yes,
you start CPR.

23

24

25

Q Am I correct that the concern



FF. 4

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that you had about calling the 25 dealing with the
Dawson case that we have heard evidence about was
that you thought the heart had not yet stopped?

5

A. That is right.

6

7

Q. And you were concerned that
enough time be taken to assess the situation to ensure
that in fact it had stopped?

8

9

A. Right.

10

11

Q. And you thought that since it
had not stopped that a Code 23 was sufficient?

12

A. That we needed a physician right
away.

13

14

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16

17

Q. Mr. Percival was dealing with
some of the documentation that is available with
respect to the chart and he was describing something
as a rough sheet and I want to see if I can put a
label on this document. First of all, you should have
beside you Exhibit 154. Is it in the pile there?

18

A. What is it?

19

20

Q. Exhibit 154, Mr. Registrar.
Something called fluid record worksheet.

21

A. Right.

22

23

24

25

Q. Am I correct that it is this
document that normally would be by the bedside of
every child?



FF.5

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A. That is right.

3

4

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Q. This would be filled out as something occurred, so that if there was intake or output it was written down immediately?

6

A. Right.

7

8

Q. It was this record that a couple might have accumulated by the bedside?

9

A. Right.

10

Q. And then thrown out?

11

12

A. Right.

Q. But when thrown out it is because they are full - the spaces are all completed?

13

14

A. It is only meant for one tour of duty.

15

16

Q. How you can tell that by looking at the blanks? Is there anything in here that says it is only for one tour?

17

18

A. At the top it says date and tour of duty.

19

20

Q. So you fill in date, the 1st of March; tour of duty, long day?

21

A. Right.

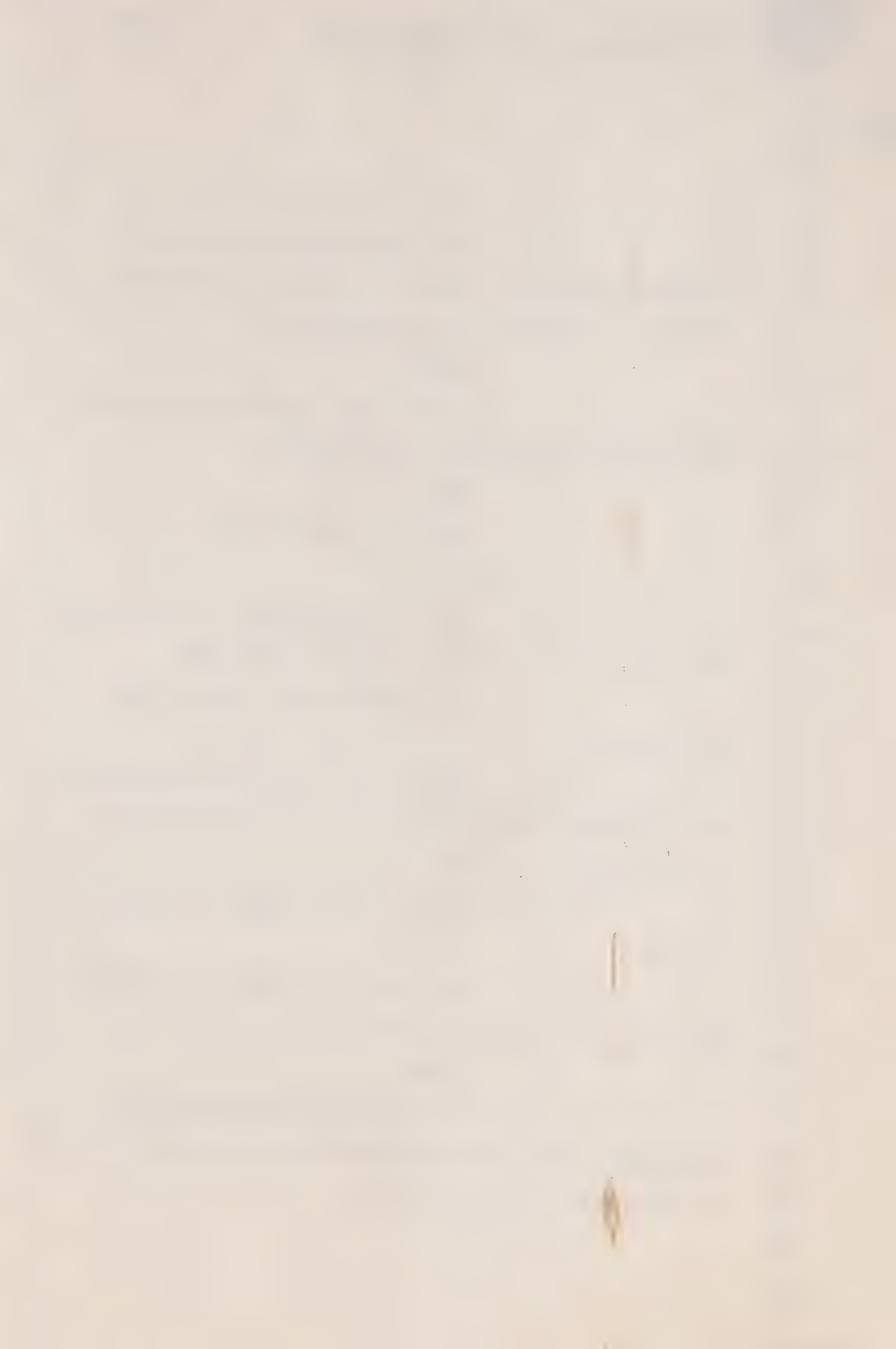
22

23

Q. So if it was destroyed at the end of the shift that was because of the normal course? It was meant to be thrown out.

24

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FF.6

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A. That is right. As it says, it was a worksheet.

4

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THE COMMISSIONER: Did I get this wrong? I thought that sometimes you put the vital signs on something like that. There is not any place for the vital signs; am I wrong?

8

9

THE WITNESS: On the far right at the bottom. There is temperature --

10

(2)

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THE COMMISSIONER: I beg your pardon, you are quite right.

MS. KITLEY: Q. I understand from Mr. Percival's examination that what he was calling a raw sheet that he was referring to Exhibit 154. Were you referring to that?

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16

A. When he was referring to a rough sheet, yes, that is what I thought he meant by that.

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Q. 154 is now a rough sheet.

A. Worksheet, rough sheet, yes.

Q. In his terminology?

A. Yes.

Q. In addition to that you indicated that where a child is on hourly vitals the flow sheet might also be at the bedside?

A. That is right.



FF. 7

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Q And the flow sheet is what is then put into the chart itself?

4

A That is right.

5

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Q Whereas the flow sheet is part of the chart, Exhibit 154 did not become part of the chart?

7

A No, it was left.

8

9

Q With the flow sheet being there only for those that have hourly vitals, Exhibit 154 is the document that you would normally be using?

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A At the bedside, yes.

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Q Now, in addition to that, you carried around in your pocket what you called a crib sheet but what we have heard from others as being a cheat sheet. Is that correct?

15

A Right.

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Q I understand that some others of your colleagues actually wrote down things during the shift on the crib or cheat sheet but that was not in fact your practice?

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A That is not usually what I did. I wrote the details of what the child required in terms of vital signs, medication, I wrote all those kinds of details on my sheet.

Q So that if you made notes during



FF.8

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the night, the long day or the long night, but let us deal with the long night now, any notes you made would be either on Exhibit 154 --

5

A. That is where I would write them, on 154.

6

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Q. Or the flow sheet if you had a child that was on hourly vitals?

8

A. Exactly.

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Q. Assuming we are just using that Exhibit 154 that would contain everything except the medication. Is that correct?

11

12

A. That is right.

13

Q. There has been some suggestion that charts ought to be closer to the bedside?

14

A. Right.

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Q. Am I correct that there are several reasons why they are not closer to the bedside?

17

A. Yes, there are.

18

Q. Can you help us as to what you think the reasons are?

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A. Primarily because by being at the desk they are accessible to everyone and when physicians or physiotherapists or whoever requires the chart then there is a common place to find it. They will know when they come to the floor that the



FF.9

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2 chart is kept in a certain spot and not in any one
3 of a number of rooms. That is one reason. I suppose
4 for practical reasons as well, it is a legal document
5 and it has to stay in good form and if it was at the
6 bedside, especially on an infants' floor, I mean,
7 things would be spilt all over it - heaven knows what
8 all.

9 THE COMMISSIONER: What about this
10 coffee that you have at the nurses' station?

11 THE WITNESS: It is kept in a special
12 rack so that it is away from the coffee.

13 MS. KITLEY: Q. Can I suggest there is
14 another reason and that is that in order to ensure
15 privacy that one patient or one patient's family
16 does not read another patient's chart, that that is
17 a reason to keep it away from the room?

18 A. That is right.

19 MS. KITLEY: Mr. Commissioner, I have
20 one area that I think might take me 10 minutes to do
21 and I did tell Mr. Shinehoft that he could have his
22 say.

23 THE COMMISSIONER: How long will you
24 be, Mr. Shinehoft?

25 MR. SHINEHOFT: 10 to 15 minutes, Mr.
Commissioner.



FF.10

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THE COMMISSIONER: And you think you
will be how long, 10 minutes?

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MS. KITLEY: I might be 10 or 15
minutes. I am prepared to interrupt it. It can
easily be interrupted if Mr. Shinehoft wants to -- I
would prefer that if I could, Mr. Commissioner.

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THE COMMISSIONER: All right. Well
then, you see if you keep on being ladylike or
gentlemanly you will eventually catch on.

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13

MS. KITLEY: Miss Nelles, I will be
back.

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MR. SHINEHOFT: Thank you very much,
Mr. Commissioner.

14

CROSS-EXAMINATION BY MR. SHINEHOFT:

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16

Q Miss Nelles, my name is Jack
Shinehoft and I represent the parents of the baby
Kevin Pacsai.

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You have indicated, Miss Nelles, on
the 11th day of March, 1981 you were on long night
duty. Is that correct?

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A. That is right.

Q You came in at approximately what
time to the Hospital?

A. Some time around 7 o'clock.

Q And you would have gone to a



FF.11

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meeting to find out about your patient assignments
for that evening?

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A. Yes, I would have.

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Q. It was at that meeting that
you were told that one of your patient assignments
was Kevin Pacsai?

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A. That is not really how I would
find out. When I came to the floor I would go and
look at the assignment book and it would be written
in there, what particular children I was assigned to,
and then I would go to the charts and get the
information on each child and then I would go to the
report on what had transpired during the day.

14

15

Q. Prior to that evening you had
never had any contact with the baby?

16

17

18

A. No, I had not.

19

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Q. What was your information as
to the baby's clinical status when you were first
informed about this child?

A. I was told that he had been
transferred that day from Hamilton. I believe I was
told about his diagnosis which I think was paroxysmal
atrial tachycardia and when he had arrived, he had
an intravenous for antibiotics I believe, and that he
seemed relatively stable.



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Q I understand that quite often patients are admitted to your Hospital for not only treatment but as well for what is called a work-up or to ascertain what in fact happened to the child even though the child may be perfectly normal. Would you agree with that, that some admissions are on that basis?

A. In other words that we don't know what their diagnosis is?

Q Well, not only that but basically that they are in relatively good health when they come to the Hospital but something happened that caused them to be in bad health and they are sent to Toronto to find out what caused the problem in the first place?

A. Certainly, yes.

Q And it is my understanding that this is the case with Kevin Pacsai. Do you have any comment about that? Is that your understanding?

A. That is my understanding, yes.

Q I note from your nursing notes, and perhaps Mr. Registrar you could provide the witness with Exhibit 106, if you could turn to page 65, Miss Nelles --

A. Yes.



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Q At the top you have the date,
March 11, and you have the hours, 1900 to 0345. Do
you see that?

A. That is right.

Q You had indicated previously
that quite often you only made one note for the
entire nursing shift?

A. Right.

Q But here you fragmented it and
you have one note to 3:45 and another note from 3:45
to 0600?

A. Right.

Q What is the reason for that?

A. Because my observations of him
after 3:45 were different than my observations of
1900 to 0345.

Q The first note covers approxi-
mately six and three-quarter hours. Is that correct?

A. That is right.

Q Would you agree with me that it
is a fairly concise, fairly short note?

A. Yes, it is.



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Q. And is that normally the type of note that you would write assuming that there was no problem with the child?

A. Right.

Q. Then you gave evidence that this child was radically different when you returned after the arrest of Baby Michelle Manojlovich?

A. Right.

Q. At 3:45.

A. Right.

Q. And you were asked a question; could you give any explanation as to this dramatic change in this baby's behavior and his medical condition?

A. I was asked that question?

Q. Well I am asking you that question. I believe you were asked it before. Could you offer an explanation as to why?

A. No, I could not.

Q. You had been working for about 17 months at this time in the cardiology ward?

A. Yes.

Q. Had you ever seen a child demonstrate that radical change in behavior in that short period of time?



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A. I think it was more what the change was, and that I had never seen such a strange arrhythmia, that the arrhythmia of his heart was very alarming.

Q. So that in your nursing experience that was very unique to you?

A. Yes.

Q. You indicated that, you said that you were relieved when you heard, or found out that Kevin Pacsai had died. But then you later went on to explain that you were not relieved as to his death --

MR. SOPINKA: No, no, she never said that first part.

THE COMMISSIONER: It was put to her.

MR. SHINEHOFT: If I could just refer to page 7946.

THE COMMISSIONER: What volume is that?

MR. SHINEHOFT: 123 or 124.

MR. LAMEK: 123.

THE COMMISSIONER: 7000 what is it?

MR. SHINEHOFT: 7946, Mr. Commissioner, at line 15. You indicated to Mr. Sopinka:

"I was relieved because now maybe the doctors would see that this had been an



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incident where we as the nurses had been aware of a child that was very ill and they had in fact not listened to us to the extent that I felt they should have at that time."

Do you recall giving that evidence?

A. Yes, I do.

Q. And later on page 7948, at line 8 were asked the question:

"Q. Were you ever relieved that Baby Pacsai had died?"

And you gave the answer: "No", and you went on to explain what you meant. You had indicated that one cause of your frustration was the fact that you went to see Dr. Ning for a second time and he had gone home.

A. Right.

Q. And would you agree that you were frustrated when this happened?

A. I felt that the baby needed attention, and I felt that, yes, I was frustrated because I didn't think that he should go home.

Q. Were you angry?

A. I was angry because he appeared to be ignoring what I was saying.

Q. Would it be fair to say that this



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was not the first time that an incident of this sort
had happened?

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A. This was the most specific,
this was one I actually had --

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THE COMMISSIONER: If this relates to
one of the deaths of one of the children.

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MR. ROLAND: If it relates to Baby
Pacsai --

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THE COMMISSIONER: I don't really think
it would be relevant.

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MR. ROLAND: And his interest in the
proceedings.

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MR. SHINEHOFT: With all due respect,
Mr. Commissioner, if this witness is going to say on
four other occasions, dealing with four other children
who are the subject matter --

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THE COMMISSIONER: Well, if they are
the subject matter I will concede it might have some-
thing to do with the cause of death. I have more than
once expressed the view, which of course I will have
to hear argument on the matter, that if we are
realistic we don't worry about anything except over-
doses of digoxin, that's all.

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MR. SHINEHOFT: Then with all due
respect, Mr. Commissioner, I think I have been very



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careful in trying to adhere to your mandate.

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THE COMMISSIONER: You don't have to,
and I know Mr. Labow feels differently on this and I
know I am going to hear an argument from him on some
of the babies that he represents died of a therapeutic
overdose, if there can be such a thing, a therapeutic
overdose of digoxin, that he will have his work cut
out for him persuading me of that.

MR. SHINEHOFT: Miss Nelles has said
she was frustrated and angry and the fact that she
went to see Dr. Ning and he wasn't there, and I am
just querying her as to this type of incident had
happened before and if it had --

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THE COMMISSIONER: Let me just see if
I can't shorten it. Every time I try to shorten things
up they get much longer, but I will try it again.
Did anything of this nature occur with any of the
other children that are on our list?

18

19

THE WITNESS: Not where the physician
went home, no.

20

21

THE COMMISSIONER: That is sort of an
answer, I guess.

22

MR. SHINEHOFT: I won't explore it any
further, Mr. Commissioner.

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THE COMMISSIONER: All right.



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2 Q. Now you had indicated that one
3 of the reasons that you thought that so many of these
4 children might have died under your charge was the
5 fact that as a senior nurse that you were given the
6 sickest of babies.

7 A. Yes.

8 Q. Do you recall giving that
9 evidence?

10 A. Yes, I do.

11 Q. Did you ever address your mind
12 as to the number of babies that were dying in the
13 intensive care unit, or in the operating room at the
14 same time that the rash of babies were dying in the
15 wards 4A and 4B, to make some kind of a comparison?

16 A. No, I did not.

17 Q. Did you think that that might
18 be of benefit to you had you made such a comparison
19 to see what was happening in your bailiwick
20 might not in fact have been happening somewhere else?

21 A. I don't remember doing that, no.

22 Q. Did you ever think about that
23 possibility?

24 A. Not that I recall, no.

25 Q. Well, you indicated that you took
the baby to the Intensive Care Unit. Did you carry the



Nelles
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baby down or did you take him in a crib?

3

A. I took him in his crib.

4

Q. And Phyllis Trayner and Dr.

5

Costigan were with you the entire time?

6

A. Right.

7

Q. And do you recall seeing Mrs.
Christie at the desk in front of the elevators when
you took the baby to the Intensive Care?

9

A. I don't recall that.

10

Q. Now Dr. Costigan that evening
was with the child about two or three times, is that
right?

12

A. I think so, yes.

13

14

Q. And he went with you to the
Intensive Care Unit, and did you find out later that
he stayed with the child?

15

16

THE COMMISSIONER: Please, let's not
pass it over quite so quickly: did he go with you
to the Intensive Care Unit?

18

19

THE WITNESS: Yes, he did.

20

THE COMMISSIONER: He accompanied you
and did Mrs. Trayner accompany you, too?

21

THE WITNESS: Yes.

22

THE COMMISSIONER: The three of you and
the baby in the crib went together.

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THE WITNESS: Right.

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Q. Now, did you find out subsequently that Dr. Costigan was with the child during his stay in ICU, and in fact was there until the baby arrested and died?

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A. I did not know that until later, no.

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A. Much later, yes.
Q. Now Dr. Costigan, I have the volume, pardon me just for a second. I have it, Dr. Costigan at Volume 45 on page 70, when he was here, he gave this evidence and I would like to review this evidence with you and ask you your opinion as it relates to the death of Baby Pacsai. Line 3 says:

"Q. The preliminary autopsy report which was signed by Dr. Cutz identifies as the immediate cause of death the last sentence under Short History Final Note, the immediate cause of death is digitalis toxicity, post mortem blood level detected was 26 nanograms, that should be, per milliliter. At the end of March, 1981



Nelles
cr. ex. (Shinehoft)

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Dr. Costigan, was that a conclusion
with which you would have agreed?"

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And he answered: "Yes". Then he was further asked:

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"Q. And in light of the digoxin
level information, of which you have
told us, in light of what you observed
before and during the resuscitation
effort on Kevin Pacsai and in light of
what you know or knew about the clinical
and anatomical condition of this child,
is it still your view that digitalis
intoxication was the probable cause of
his death?"

14

And he answered: "Yes". Now, would you agree
with that?

15

16

MR. SOPINKA: Well, I don't think that
is a proper question, you were asking a medical doctor --

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THE COMMISSIONER: We have got a
doctor who said something and it is based entirely
upon the information that she has received, the same
information we received and I can work it out. If
there was something about the child at the time and
indeed she has given evidence with respect to this
that caused her to be somewhat concerned and alarmed
that is evidence I would like to hear about. But



10 1
2 whether after she received all the pharmacological,
3 biochemical and medical opinion of the matter, she was
4 of the opinion, doesn't help us much. I don't see any
5 harm in the question, but if you don't want it to be
6 answered --

7 MR. SOPINKA: I submit that it is a
8 very difficult opinion. We have had debates here
9 among all these eminent pharmacologists as to whether
10 or not digitalis toxicity, how does a nurse - she
11 doesn't have all the facts.

12 MR. SHINEHOFT: But she was caring for
13 this child and she was with Dr. Costigan and she may
14 have some independent information to add.

15 MR. SOPINKA: There isn't the slightest
16 indication she has any experience as to recognizing
17 digitalis toxicity.

18 THE COMMISSIONER: I'm pretty sure I
19 know what the answer is going to be, if you would just
20 let her give it. If you don't want to answer that,
21 I won't require her to answer it.

22 MR. SHINEHOFT: Would you care to voice
23 an opinion?

24 MR. SOPINKA: If she would like to
25 answer it, that's fine, she is the boss.

THE COMMISSIONER: If you would like to



1
2 answer it, Miss Nelles, go ahead, if you don't, how
3 is that for an offer?

4 THE WITNESS: Well, I think that you
5 were asking Dr. Costigan the chief resident, and to
6 ask him and to ask me are totally, I mean, he is a
7 physician and I am a nurse.

8 MR. SHINEHOFT: Okay. That's fine.
9 I accept your answer, Miss Nelles.

10 Q. Just one or two final things.
11 The note that you made on March 11th, the 1900 to
12 035, when did you make the note?

13 A. I made it before I went to the
14 Intensive Care Unit, so I would have made it I imagine
15 somewhere around 4:30, 5 o'clock.

16 Q. And then the second note that
17 you made, the 035 to the 0600 on March 12th, when
18 would you have made that note?

19 A. It is my recollection that I made
20 that note, I started it before I went to the Intensive
21 Care and I finished it in the Intensive Care Unit.

22 Q. Is there anything else, Miss
23 Nelles, regarding Baby Kevin Pacsai that you havenot
24 told us about, that you feel might be relevant to these
25 proceedings?

A. No, there is not.



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MR. SHINEHOFT: I have no further questions. Thank you very much.

THE COMMISSIONER: Thank you, Mr. Shinehoft. Now, Miss Kately, what do you want to do?

MS. KATELY: Well, Mr. Commissioner, the last thing I wanted was to go through with Miss Nelles some of the entries in the communications book and meeting book. It would probably be more productive if I could ask her counsel perhaps to allow her to read the entries over the weekend and I can quickly fly through it on Monday.

THE COMMISSIONER: Yes, right. Why don't you do that, why don't you just tell us now which the ones are, do you want to do that?

MS. KATELY: Certainly. Would it be easier if I did it with Mr. Sopinka?

THE COMMISSIONER: Well, no, if you could just --

MS. KATELY: I have got them all flagged. I can just make a list for my friend.

THE COMMISSIONER: Just tell what they are.

MS. KATELY: Okay. In Exhibit 300 the dates are July 31st, August 15th.

THE COMMISSIONER: 300 is the one with



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the four tabs?

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MS. KITELY: 300 is the 4A communica-

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tions book.

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THE COMMISSIONER: It has several tabs;

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which, the communications book you are referring to?

7

Tab 1.

8

MS. KITELY: Yes. It is Tab 1, 4A

9

communications book.

10

THE COMMISSIONER: Yes, all right.

11

MS. KITELY: The entries are July

12

31st, August 15th, September 5th, September 8th,

13

September 26th, October 2nd, November 18, December

14

18th, January 8th, March 10th, and that's it.

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THE COMMISSIONER: Yes. All right.

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THE COMMISSIONER: Yes, all right.

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And what sort of questions are you going to ask?

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MS. KITELY: Some of those issues

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at meetings.

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THE COMMISSIONER: Yes.

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MS. KITELY: And if she wasn't

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at, she indicated in her evidence she had read the
book on a bi-monthly basis.

9

THE COMMISSIONER: And what sort

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of questions will you be asking?

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MS. KITELY: Does it refresh her

12

memory about things happening. I am dealing with

13

the business about Andrea Frewin in one part or

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Dr. Wehrspann in another and meeting with Dr. Rowe

15

in another. I think the questions will be self-
evident from those.

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THE COMMISSIONER: Yes, all right.

17

You think that will take about fifteen minutes?

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MS. KITELY: I think less,

19

especially if she has read them before she gets in

20

the witness stand. I'm sorry, sir, there is the
ward meeting book entries too.

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THE COMMISSIONER: Oh, sorry, okay.

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MS. KITELY: Which is the tab

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called Ward Meeting Book 4A.

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THE COMMISSIONER: Yes.

MS. KITELY: And in that the
entries are August 5th, October 23rd, October 27th,
January 16th and March 11th.

THE COMMISSIONER: Yes, all right.
Thank you. Mr. Knazan, how long do you think you
will be?

MR. KNAZAN: No more than five
minutes.

THE COMMISSIONER: No more than
what?

MR. KNAZAN: No more than five
minutes.

THE COMMISSIONER: Five minutes.
Mr. Rosenberg?

MR. ROSENBERG: At this point I
don't anticipate having any questions.

THE COMMISSIONER: All right.
Mr. Olah?

MR. OLAH: I will be about twenty
minutes, sir.

THE COMMISSIONER: Mr. Labow?

MR. LABOW: Probably about 90
minutes, sir.

THE COMMISSIONER: 90 minutes.



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MR. SOPINKA: Is that allowed?

THE COMMISSIONER: Well, yes, I'm
afraid it is.

Mr. Shanahan?

MR. SHANAHAN: I would say about
fifteen minutes, sir.

THE COMMISSIONER: Mr. Tobias isn't
here but I think he did indicate how long he was
going to be. Is there anybody I have left out?

MR. SOPINKA: He has no questions!

MS. KITELY: He said about an hour,
I believe, sir.

THE COMMISSIONER: Did he? Well,
we can still I think manage it with the re-examination
and everything by Monday. But we are not going to
start until 11:15 and we will go on without a
break until 12:45.

--- whereupon the hearing was adjourned at 4:30 p.m.
until Monday, the 9th day of April 1984, at
11:15 a.m.

